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In the Supreme Court of the United States

OCTOBER TERM, 1975

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA,
a Religious Body, et al.,

Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

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Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

To The Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

The Petitioners, the Serbian Eastern Orthodox Diocese for the United States of America and Canada, a Religious Body; the Middle Western American, Western American, and Middle Eastern American-Canadian Dioceses of the Serbian Orthodox Church; and Bishops Firmilian Ocokoljich, Gregory Udicki, and Sava Vukovich, pray that a Writ of Certiorari issue to review the judgment of the Supreme Court of Illinois entered on March 24, 1975, as modified upon denial of cross-petitions for rehearing on May 29, 1975.

OPINIONS BELOW

The Opinion of the Supreme Court of Illinois, reported at 60 Ill. 2d 477 and 328 N.E. 2d 268, is reproduced as Appendix A to this Petition. The Memorandum Opinion (entered December 28, 1972), and the Final Decree (entered April 30, 1973) of the Circuit Court for the Nineteenth Judicial Circuit, Lake County, Illinois, are reproduced as Appendix B. The Opinion of the Illinois Appellate Court in an earlier appeal is reported *sub. nom. Serbian Eastern Orthodox Diocese* v. *Ocokoljich* at 72 Ill. App. 2d 444 and 219 N.E. 2d 343 (1966), and is reproduced as Appendix C.

JURISDICTION

The judgment of the Supreme Court of Illinois, originally entered on March 24, 1975, was modified on May 29, 1975, upon denial of cross-petitions for rehearing. This Petition was filed within 90 days of May 29, 1975. This Court has jurisdiction to review the judgment by Writ of Certiorari pursuant to 28 U.S.C. §1257(3).

QUESTIONS PRESENTED

Brief Summary of the Case

In 1963, the Holy Assembly of Bishops and the Holy Synod of the Serbian Orthodox Church ("Mother Church"), concededly the legitimate and highest ecclesiastical authorities of that hierarchical church, suspended and ultimately removed Respondent Dionisije Milivojevich ("Dionisije") as Bishop of the American-Canadian Diocese, appointed Bishop Firmilian Ocokoljich ("Firmilian") as Administrator of the Diocese, reorganized the Diocese into three Dioceses, and in 1964 defrocked Respondent Dionisije as a Bishop and cleric of the Mother Church.

Dionisije refused to participate in the investigatory, removal and defrockment proceedings which followed his suspension. In fact, he and a faction of the members of the Diocese refused to recognize the proceedings and decisions of the Holy Assembly, attempted to secede from the Mother Church, and refused to recognize the Administrator. They remained in possession of the See of the Diocese and other Diocesan property; refused to permit those loyal to the Mother Church to come on or use Diocesan property; and asked the Illinois Courts to uphold both the validity of their opposition and secession, and Dionisije's unilateral refusal to obey Church law as interpreted by its highest judicatories.

The Supreme Court of Illinois substantially reversed the decree of the trial court and in effect attempted to reinstate Dionisije as a cleric and Bishop of the Mother Church and as Diocesan Bishop. Although no fraud, collusion or duress was claimed by Respondents or was found to exist by the Supreme Court of Illinois, that Court held the proceedings of the Holy Assembly of Bishops respecting Dionisije were procedurally and substantively defective under the internal regulations and procedures of the Serbian Orthodox Church (as interpreted by the Illinois Supreme Court), and were therefore "arbitrary" and invalid. In reaching this conclusion, the Illinois Court undertook to construe the internal regulations of the Mother Church, to adopt the construction of church law espoused by respondents' witness (a defrocked former cleric), and to reject that of the Holy Assembly of Bishops and petitioners' witnesses (three Bishop members of the Holy Assembly; the Secretary of the Holy Synod; and a Professor of Theology at St. Vladimir's Orthodox Theological Seminary). The Supreme Court of Illinois also invalidated both the Diocesan reorganization and Respondents' attempted secession.

Questions Presented

1. In the absence of fraud, collusion or duress, is it consistent with the First and Fourteenth Amendments to the United States Constitution for a State court, in reviewing the procedures followed by the highest authorities of a hierarchical church in removing and defrocking a Diocesan Bishop of that church:

> (a) to construe the internal regulations and procedures of the church differently from the construction given them by the highest church authorities and on the basis thereof;
>
> (b) to invalidate the removal and defrockment; and
>
> (c) to reinstate the former Bishop as a Bishop of the church and as Diocesan Bishop?

2. In the absence of fraud, collusion or duress, may a State court, consistent with the First and Fourteenth Amendments, invalidate the removal and defrockment of a Bishop by the highest authorities of a hierarchical church, on the ground that the removal and defrockment procedures employed were erroneous under the State court's interpretation of internal church laws and regulations, and therefore "arbitrary"?

3. Consistent with the First and Fourteenth Amendments, may a State court weigh documents and testimony of witnesses relating to the internal regulations and procedures of a hierarchical church, interpret that internal church law in contradiction to the interpretation made by the highest ecclesiastical authorities of that church and, on that basis, invalidate the removal and defrockment of a Bishop of that church?

4. Consistent with the First and Fourteenth Amendments, may a State court determine that the suspension of a Diocesan Bishop and the appointment of an administrator for the Diocese by the highest ecclesiastical authorities of a hierarchical church have expired, even though the suspension and appointment are considered as continuing by those ecclesiastical authorities?

5. Consistent with the First and Fourteenth Amendments, may a State court invalidate the reorganization of Dioceses by the highest authorities of a hierarchical church, on the ground that in the opinion of the Court the reorganization violates internal church laws and regulations?

CONSTITUTIONAL PROVISIONS INVOLVED

The constitutional provisions involved in this case are:

1. The First Amendment to the United States Constitution, which provides in pertinent part:

> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ."

2. The Fourteenth Amendment to the United States Constitution, which has long been interpreted to make the limitations of the First Amendment applicable to State action, and which provides in pertinent part:

> ". . . No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. . . . "

STATEMENT OF THE CASE

It is undisputed that the Serbian Orthodox Church (the "Mother Church") is an ancient, autocephalous, hierarchical church that came into existence in 1219 A.D.* The Seat of the Church is the Patriarchate in Belgrade, Yugoslavia. Its organization is episcopal, *i.e.*, it is governed by its Bishops. It is undisputed that the highest legislative, judicial, ecclesiastical and administrative authority of the Church is the Holy Assembly of Bishops—a body consisting of all Diocesan Bishops. The Holy Synod of Bishops is the highest executive body of the Church, and is composed of the Patriarch as President and four Diocesan Bishops selected by the Holy Assembly. The legitimacy of the Holy Assembly and the Holy Synod as the highest church judicatories is not disputed. A substantial majority of church members reside in Yugoslavia, but there are hundreds of thousands of church members in the United States and other countries.

In 1921, the Holy Assembly of Bishops created the Serbian Eastern Orthodox Diocese for the United States of America and Canada ("American-Canadian Diocese") for the Serbian Orthodox Church members who had emigrated from Serbia to the United States. Since 1921, the American-Canadian Diocese—like all other dioceses—has been governed by Diocesan Bishops and administrators appointed by the Holy Assembly. Each of these Bishops was a Yugoslav citizen at the time of his appointment, with the exception of Bishops Firmilian and Gregory, whose status is challenged by respondents, and who are naturalized American citizens.

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* This Court has stated that "[h]ierarchical churches may be defined as [1] those organized as a body with other churches [2] having similar faith and doctrine [3] with a common ruling convocation or ecclesiastical head." *Kedroff* v. *St. Nicholas Cathedral of Russian Orthodox Church*, 344 U.S. 94, 110 (1952).

The Events In Issue.

Acting on the basis of persistent and widespread complaints and accusations from the clergy and church members in the United States and Canada, the Holy Assembly in its morning session on May 10, 1963 unanimously recommended that the Holy Synod institute disciplinary proceedings against Dionisije Milivojevich ("Dionisije"), the Diocesan Bishop of the American-Canadian Diocese. (A. 195, 1344-45.)* Dionisije had been a Bishop in Yugoslavia before he was designated by the Holy Assembly as Bishop of the American-Canadian Diocese and sent to the United States in 1939. The Holy Synod suspended Dionisije and appointed Firmilian Ocokoljich ("Firmilian"), then Dionisije's chief episcopal deputy, as Administrator of the American-Canadian Diocese, pending disposition of the charges against Dionisije. In its afternoon session, the Holy Assembly, recognizing the growth of the Church in the United States and Canada, reorganized the American-Canadian Diocese into three Dioceses, appointing the suspended Dionisije as Bishop of one of those Dioceses.

Dionisije's immediate and persistent reaction was to refuse to accept the Holy Assembly's actions, refuse to participate in the proceedings relating to the charges against him, and to call publicly for rebellion against and secession from the Mother Church.** Although he was

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* Record references herein are to the Abstract ("A") and Supplemental Abstract ("SA") filed in the Supreme Court of Illinois. Pursuant to Rule 21 of the Rules of this Court, Petitioners have asked the Clerk of the Supreme Court of Illinois to certify and transmit to this Court the record in this cause.

** Circular (May 25, 1963); press release (May 27); letter to Firmilian (May 30); circular (June 3). (A. 1629-35, 1689-90; SA. 215-17, 239-43, 690-701.)

under suspension, Dionisije continued to officiate as Bishop, purported to discharge all Diocesan officials who accepted the authority of the Mother Church, and refused to turn the administration of the Diocese over to Firmilian, the Administrator designated by the Holy Synod. See, *e.g.*, A. 337-38, 1636-37, 1640-41; S.A. 230, 288, 340, 765-67, 790-91.)

On June 13, 1963, the Holy Synod appointed a delegation of two Bishops and the Secretary of the Holy Synod to come to America to investigate the charges against Dionisije. (SA. 76, 244.) Dionisije reacted by demanding that he be given all accusations against him in writing, so that he could sue his accusers in the civil courts. He also refused to accord hospitality to the delegation of his fellow Bishops, refused to permit them to meet in the See of the Diocese, and announced that he would neither recognize nor attend any hearings conducted by the delegation.* This attitude was stridently reiterated at a meeting between the delegation and Dionisije and a group of his followers (July 5) in a local restaurant selected by Dionisije after he refused to permit the delegation to meet in the See of the Diocese. It was again repeated in a letter to the Patriarch (July 11), and a circular letter to all parishes in the Diocese (July 15). (A. 226, 624, 626, 1123, 1126-29, 1413-15; SA. 289-92.)

On the report and recommendation of the delegation, which detailed Dionisije's open defiance, rebellion and contempt, he was removed as Bishop at a special meeting of the Holy Assembly held on July 26-27, 1963. (SA. 69-71.) Dionisije continued his defiance and contempt by broad-

*Circular to the American-Canadian Diocese (June 28); letter to the delegation (July 5). (A. 1329-30, 1638-39; SA. 800-08.)

casting a circular (September 20) and by calling and presiding (in violation of church law) at two illegal Sabors (Church Councils), at which Dionisije and his followers purported to amend the Diocesan Constitution and secede from the Mother Church. (A. 1245-61; SA. 142, 250-51, 260-73, 294-96.)

On October 18, 1963, a formal written indictment against Dionisije was forwarded to him by the Holy Synod for his response. (A. 1362-1413; SA. 274.) On November 18 Dionisije wrote to the Holy Synod, demanding that verified copies of all the reports and complaints referred to in the indictment be sent to him, and that he be allowed a six-months extension within which to respond to the indictment. (A. 1272-73.) The Holy Synod granted Dionisije a one-month extension to mid-January. His request for verified copies of charges was denied on the ground that the charges were described in the indictment, that additional details were evidentiary in nature, and that there was no legal or canonical basis for forwarding such material to an accused Bishop. (A. 1274, 1276; SA. 77.)

Dionisije then refused to answer the indictment. (Telegram of January 13, SA. 280-81; letter of January 25, SA. 281-83.) As he had done in his prior letters and public statements, he attacked the Patriarch, Holy Assembly and Holy Synod as schismatic, pro-Communist, atheistic and heretical.

On March 5, 1964, the Holy Assembly tried Dionisije as a default matter, since he had refused to respond to or otherwise participate in the proceedings. The Holy Assembly voted to defrock him. Among the principal grounds for this judgment were several charges based upon the open and undisputed acts of defiance, rebellion and seces-

sion which Dionisije had committed subsequent to May 10, 1963, and his refusal to participate in the investigatory and disciplinary proceedings. (A. 1420-1439.)

Dionisije and his followers have persisted in their rebellion. Although a majority of the churches and communicants in the United States have remained true to the Mother Church, Dionisije and his minority faction followers have maintained possession, *pendente lite,* of the See of the Diocesan Bishop, and of monasteries, cemeteries, and homes for the aged located in Libertyville, Illinois; Shadeland, Pennsylvania; and Jackson, California.

The History of This Litigation

On May 27, 1963, before the investigating committee had even been appointed or the indictment returned, Dionisije issued a press release (SA. 239-40) stating that he would not recognize his suspension, and that he would vigorously litigate the matter in the civil courts of the United States. Acting upon this threat, Dionisije on July 26, 1963 commenced this action in the Circuit Court of Lake County, Illinois, asking that the Bishops appointed by the Holy Assembly be enjoined from interfering with his administration of the Diocese and that he be recognized as the true Diocesan Bishop. The three Bishops who had been appointed Bishops of the three reorganized dioceses later filed a counter-complaint which was consolidated with Dionisije's action.

In 1964 the trial court granted summary judgment in favor of Dionisije and dismissed the countercomplaint of the three Bishops. That decision was reversed by the Illinois Appellate Court, *Serbian Eastern Orthodox Diocese* v. *Ocokoljich,* 72 Ill. App. 2d 444 (2d Dist. 1966) (Appendix C). In its initial decision, the Appellate Court flatly con-

cluded that the suspension, removal and defrockment of Dionisije were valid and binding upon the civil courts. On rehearing, the Appellate Court reaffirmed that decision, but did accede to Respondents' insistence that they be given an opportunity to attack Dionisije's removal by proving at trial that it was a result of communist-influenced fraud, collusion or arbitrariness. The Appellate Court remanded the case for trial on all issues.

Following a trial of more than 100 days (which involved over 100 witnesses, more than 12,000 transcript pages, and nearly 600 exhibits), the trial court entered a Memorandum Opinion and a Final Decree (Appendix B), concluding, *inter alia,* that the challenged decisions of the Holy Assembly and the Holy Synod "were in no way tainted with fraud, collusion, or arbitrariness," and that Dionisije had been validly and properly suspended, removed and defrocked.

On March 24, 1975, the Supreme Court of Illinois issued an opinion substantially overturning many of the findings and decisions of the trial court. The Supreme Court of Illinois proceeded to construe the internal church constitutions of the Mother Church and of the Diocese, and the Penal Code of the Mother Church, and to weigh and evaluate the testimony of various witnesses on the disputed points of internal church law. Accepting the testimony of respondents' only witness on ecclesiastical rules, a defrocked former cleric of the Church, and rejecting the testimony of Petitioners' five expert witnesses,* the Su-

* Petitioners' witnesses included three members of the Holy Assembly of Bishops, one of them the author of the Church Penal Code; a clerk who had served for many years as secretary to the Holy Synod; and Dr. Meyendorff, a recognized expert in the field of ecclesiastical law.

preme Court of Illinois adopted a construction of the Church laws and regulations at variance with that adopted by the Holy Assembly. In so doing, the Court ignored the provisions of the Church Constitution, which empowers the Holy Assembly to interpret canonical ecclesiastical rules and expressly makes final the Holy Assembly's interpretations and decisions (Constitution, Articles 57, 64, 69.9). (A. 1514, 1516-1517).

On the basis of its construction of the law of the church, the Supreme Court of Illinois found that the proceedings against Dionisije were procedurally and substantively defective, and concluded that this made those proceedings "arbitrary" and invalid within this Court's *dicta* in *Gonzalez* v. *Roman Catholic Archbishop of Manila*, 280 U.S. 1, 16 (1929). The opinion of the Illinois Supreme Court in effect purported to set aside the 1963 removal and the 1964 defrockment of Dionisije.

In reaching those conclusions, the Court rejected Petitioners' contention that, in view of Dionisije's refusal to participate in the proceedings, his trial was properly conducted as a default matter under Article 66 of the Penal Code. That article (A. 1620-21) provides that if one charged with a violation refuses to participate in the proceedings, he is deemed to acknowledge the charges against him, and subsequent proceedings will be concluded without his participation.* The Illinois Court also rejected petitioners' argument that Dionisije's open and admitted defiance of Church authority constituted offenses for which he was properly removed and defrocked. Finally, the Court re-

* The Court's decision also appears to ignore Article 67 of the Church Penal Code (A. 1621), which provides: "The initiation of the Due Process is not bound by any formalities."

jected petitioners' detailed arguments that the evidence demonstrated compliance with all internal church regulations.

In addition, the Court affirmed the trial court's decision invalidating the action of the Holy Assembly in reorganizing the Diocese into three Dioceses as well as Respondents' attempts to secede from the Mother Church.

The Supreme Court of Illinois recognized that the Serbian Orthodox Church is hierarchical and episcopal, and that the decisions of the highest hierarchical church authorities are normally to be accepted as conclusive in disputes before the civil courts, even though civil rights are affected. However, the Court rejected Petitioners' contentions that the review and invalidation of the Mother Church's removal and defrockment of a Bishop, which was sought by Respondents and granted by the Supreme Court of Illinois, constituted an interference with the First and Fourteenth Amendment guarantees of religious freedom and was at odds with the prior decisions of this Court.*

Petitions for rehearing were filed by all parties. Petitioners specifically complained that the Court's action in construing internal church law and rejecting the construction of that church law by the Holy Assembly, as well as the review and purported invalidation of the proceedings against Dionisije, constituted an improper interference in

* These constitutional contentions were asserted by Petitioners throughout the litigation. See, *e.g.*, A. 26, 32, 35, 37 (from the pleadings); Brief in the Supreme Court of Illinois, pp. 54-59, 62-70, Petition for Rehearing, pp. 2-14. These contentions were partially accepted in the Memorandum Opinion of the trial court (A. 105-109), and were recognized but rejected by the Supreme Court of Illinois in its opinion.

religious affairs and an infringement of the constitutional guarantees of the First and Fourteenth Amendments.

On May 29, 1975, the Supreme Court of Illinois denied the petitions for rehearing. However, without granting rehearing or permitting argument on the issue, the Court modified its original opinion by adding two sentences which suggest that the suspension of Dionisije by the Holy Synod is no longer effective.* The Court's opinion purports to have the effect of reinstating Dionisije as Diocesan Bishop (and apparently as a member of the Holy Assembly of Bishops), although the church authorities consider him to have been suspended, removed and defrocked.

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* The language added upon rehearing appears in italics at page 28 of Appendix A.

REASONS FOR GRANTING THE WRIT

I.

THE DECISION OF THE SUPREME COURT OF ILLINOIS, INVALIDATING THE REMOVAL AND DEFROCKMENT OF A BISHOP OF A HIERARCHICAL CHURCH, REINSTATING THE BISHOP, AND DECIDING OTHER INTERNAL CHURCH MATTERS, OFFENDS THE FIRST AND FOURTEENTH AMENDMENTS.

A. Under This Court's Prior Decisions, The Illinois Supreme Court Was Required (But Failed) To Accept As Conclusive, Decisions Of The Holy Assembly Of Bishops On Matters Of Clerical Discipline and Church Organization.

The basic premise of the recognition of hierarchical decisions is really not in dispute. As the Supreme Court of Illinois itself stated in this case (328 N.E. 2d at 280):

> "Plaintiffs argue and defendant Bishop Dionisije does not dispute that the Serbian Orthodox Church is a hierarchical and episcopal church. Moreover, the parties agree that in cases involving hierarchical churches the decisions of the proper church tribunals on questions of discipline, faith or ecclesiastical rule, though affecting civil rights, are accepted as conclusive in disputes before the civil courts."

The status of the Serbian Orthodox Church as a hierarchical and episcopal (*i.e.*, governed by Bishops) church is clear from the evidence and is not disputed. Furthermore, there is no dispute concerning the legitimacy of the Holy Assembly of Bishops and its executive arm, the Holy Synod, as the highest ranking religious

bodies in the church hierarchy. Nor is there any dispute that it is those bodies, and they alone, which under church law possess power and jurisdiction with respect to the removal and defrockment of Bishops.

The principle that civil courts are required to accept as conclusive the decisions of the highest ecclesiastical judicatories of a hierarchical church in religious disputes (even though those disputes also involve civil rights) is established by the decisions of this Court in *Watson* v. *Jones,* 80 U.S. (13 Wall.) 679, 727-729 (1871), and in *Gonzalez* v. *Roman Catholic Archbishop,* 280 U.S. 1, 16 (1929), both decided without reference to any express constitutional provisions, and in *Kedroff* v. *St. Nicholas Cathedral of the Russian Orthodox Church,* 344 U.S. 94, 113-115, 120-121 (1952) (later opinion, *sub nom. Kreshik* v. *St. Nicholas Cathedral of the Russian Orthodox Church,* 363 U.S. 190 (1960), and *Presbyterian Church in the United States* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church,* 393 U.S. 440, 445-449 (1969)), which were expressly based upon the guarantees of religious freedom set forth in the First Amendment and made applicable to the States by the Fourteenth Amendment. Each of these cases, as does the case at bar, involved a schismatic religious group which sought unsuccessfully to have the civil courts determine that the church hierarchy had violated internal church laws relating to discipline, organization or doctrine.

The classic statement of the principle is the following often-quoted language from *Watson* v. *Jones,* 80 U.S. at 727, 729:

> "In this class of cases [hierarchical churches] we think the rule of action which should govern the courts . . . is, that, whenever the questions of discipline, or of faith, or ecclesiastical rule, custom, or law have been decided by the highest of these church judicatories to which the matter has been carried, the legal tribunals must accept such decisions as final, and as binding upon them, in their application to the case before them . . ."
>
> ". . . .
>
> "It is of the essence of these religious unions, and of their right to establish tribunals for the decision of questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to such appeals as the organism itself provides for."

The case most closely analogous on the facts is *Kedroff* v. *St. Nicholas Cathedral of Russian Orthodox Church,* 344 U.S. 94 (1952). There, the bulk of the American communicants of the Russian Orthodox Church had rejected the authority and decisions of the Patriarch and of the Mother Church in Russia, on the ground that those decisions were improper under church law and tradition, and that the Mother Church was dominated by the Communist government of Russia. This Court struck down a New York State statute which recognized the American dissenters as the true Russian Orthodox Church. On the basis of the principle that civil courts must recognize hierarchical decisions, this Court then recognized the Mother Church's appointee as the legitimate Archbishop of the Archdiocese of North America and the Aleutian Islands. As such, the Patriarch's appointee was entitled to possession of the Cathedral, which was at issue in the litigation.

In analyzing the constitutional principles applicable to the selection and removal of clergy by hierarchical churches, this Court stated in *Kedroff* (344 U.S. at 116):

> "Freedom to select the clergy, where no improper methods of choice are proven, we think, must now be said to have federal constitutional protection as a

part of the free exercise of religion against state interference.'"*

A much-quoted section of Justice Frankfurter's concurring opinion in *Kedroff* answers the contention of Respondents that this case is essentially a property dispute, because the identification of the legitimate holder of a clerical position has the effect of determining the right to the possession or control of property. Mr. Justice Frankfurter stated (344 U.S. at 121):

> ". . . St. Nicholas Cathedral is not just a piece of real estate. It is no more that than is St. Patrick's Cathedral or the Cathedral of St. John the Divine. A cathedral is the seat and center of ecclesiastical authority. St. Nicholas Cathedral is an archiepiscopal see of one of the great religious organizations. What is at stake here is the power to exercise religious authority. That is the essence of this controversy. It is that even though the religious authority becomes manifest and is exerted through authority over the Cathedral as the outward symbol of a religious faith."

After *Kedroff* was remanded, the New York State Courts determined after a trial that the Mother Church and the Patriarch were dominated by the Russian Government and therefore decided that the Patriarch's appointee could not occupy the Cathedral. This Court summarily reversed the New York decision, holding (in a decision particularly applicable to the interference by the Supreme Court of Illinois in the case at bar) that civil interference in internal religious matters is no more permissible if done by a court than by the Legislature. *Kreshik* v. *St. Nicholas Cathedral of the Russian Orthodox Church*, 363 U.S. 190 (1960).

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* The footnote to this quotation refers to *Gonzalez* v. *Roman Catholic Archbishop*, 280 U.S. 1, 16 (1929). See p. 21, *infra*.

B. The Illinois Decision Improperly Sanctions Detailed Review Of The Merits Of The Decisions Of Hierarchical Churches And Judicial Interpretation Of Internal Church Regulations. This Court Should Establish That The So-Called "Fraud, Collusion, Or Arbitrariness" Exception Does Not Sanction That Kind Of Judicial Intrusion Into Internal Church Affairs.

Of course, the Supreme Court of Illinois did not concede that its decision contravened the principles enunciated in this Court's prior decisions. Instead, the Court purported to review and reverse the Holy Assembly's decisions under the so-called "fraud, collusion or arbitrariness" exception to the rule requiring recognition by civil courts of decisions by hierarchical church tribunals. That action is unsound and is at odds with this Court's prior decisions.

It is important to make clear what Petitioners seek (and what they do not seek) by this petition. Petitioners *do not* seek to have this Court review the detailed evidence relating to the internal Church regulations and procedures of the Serbian Eastern Orthodox Church and determine whether Petitioners and the Holy Assembly of Bishops on the one hand, or Respondents and the Supreme Court of Illinois on the other hand, were correct in their interpretation of those internal Church regulations.

Petitioners *do* ask this Court to decide whether, under the First and Fourteenth Amendments, a civil court may undertake to interpret disputed questions of internal Church law, reject the interpretations of the Church's highest judicatories, weigh the evidence adduced in a Church disciplinary proceeding conducted by the Church's highest judicatory, and invalidate the Church's decision as "arbitrary," as though the Court were reviewing the decision of an administrative agency.

We respectfully submit that this Court should grant certiorari in order to examine, define and clarify the basis and scope of the "fraud, collusion and arbitrariness" exception. This Court should make it clear that the exception does not permit civil courts to engage in detailed procedural and substantive review of proceedings of church tribunals. The "exception" to the general rule of recognition of church decisions as defined and applied by the Supreme Court of Illinois is so broad as to nullify the general rule itself.

The Treatment Of The "Exception" In This Court's Prior Decisions.

The "fraud, collusion or arbitrariness" exception has been mentioned in *dicta* in several of this Court's decisions. However, this Court has never defined the "narrow" scope of review of church decisions permitted by the exception. Nor has this Court had occasion to apply the stated exception to the facts of any particular case.

There was no suggestion of the "exception" in this Court's decision in *Watson* v. *Jones*, 80 U.S. (13 Wall.) 679 (1871). It first appeared in *Gonzalez* v. *Roman Catholic Archbishop of Manila*, 280 U.S. 1, 16 (1929), as an unexplained exception to the general rule of recognition of decisions by church tribunals.* However, the opinion in *Gonzalez* made it clear that the stated exception was not in issue in that case (280 U.S. at 18):

> "There is not even a suggestion that he [the Archbishop] exercised his authority arbitrarily."

Since *Gonzalez*, the exception has been referred to in *dicta* (but never applied) in three of this Court's decisions.

In one of these cases, *Presbyterian Church in the United States* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440, 447, 450-451 (1969), this Court quoted the language from *Gonzalez* (393 U.S. at 447) and made the following statements, which constitute the Court's only exposition concerning the "fraud, collusion, or arbitrariness" exception.* (393 U.S. at 450-451):

> "The departure-from-doctrine approach is not susceptible of the marginal judicial involvement contemplated in *Gonzalez*. Gonzalez' rights under a will turned on a church decision, the Archbishop's, as to church law, the qualifications for the chaplaincy. It was the archbishopric, not the civil courts, which had the task of analyzing and interpreting church law in order to determine the validity of Gonzalez' claim to a chaplaincy. Thus the civil courts could adjudicate the rights under the will without interpreting or weighing church doctrine but simply by engaging in the narrowest kind of review of a specific church decision—i.e., whether that decision resulted from fraud, collusion, or arbitrariness. Such review does not inject the civil courts into substantive ecclesiastical matters."

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* The precise language was (280 U.S. at 16):

> "In the absence of fraud, collusion, or arbitrariness, the decisions of the proper church tribunals on matters purely ecclesiastical, although affecting civil rights, are accepted in litigation before the secular courts as conclusive, because the parties in interest made them so by contract or otherwise."

* The other two cases which referred to the *Gonzalez* language are *Kedroff* v. *St. Nicholas Cathedral of Russian Orthodox Church*, 344 U.S. 94, 116 (1952) (quoting *Gonzalez* in footnote), and *Maryland & Virginia Eldership of the Churches of God* v. *Sharpsburg Church*, 396 U.S. 367, 369 (1970) (concurring opinion quoting *Gonzalez*).

Thus, the exposition was limited to a caution that the exception involves only "marginal judicial involvement" and "the narrowest kind of review," and that it should not "inject the civil courts into substantive ecclesiastical matters." Even in making these limited explanatory statements, the Court defined them as *dicta,* stating in a footnote (393 U.S. at 450):

> "We have no occasion in this case to define or discuss the precise limits of review for 'fraud, collusion, or arbitrariness' within the meaning of *Gonzalez.*"

This Court, then, has never applied or even explored the bases, content or limits of the "fraud, collusion, or arbitrariness" exception. Certainly this Court has never sanctioned the expansive interpretation of the *Gonzalez* exception asserted by the Supreme Court of Illinois as the basis upon which to overturn the Holy Assembly's decision in the case at bar.

The Far-Reaching Consequences Of The Illinois Court's Decision.

The "fraud" and "collusion" portions of the *Gonzalez* exception are not involved in this case. Neither fraud or collusion has been proved by Respondents or found to exist by any Court. Indeed, the only remotely similar allegation—Dionisije's persistent assertion prior to trial that the Church proceedings against him were instigated and controlled by the Communist government of Yugoslavia—was never supported by proof, was expressly rejected by the trial court (App. B at 45), was not argued by Respondents in the Supreme Court of Illinois and has now been abandoned.

In any event, the concepts of "fraud" and "collusion" are fairly precise and are well calculated to limit review

of ecclesiastical decision by civil courts to the "marginal" or "narrowest kind" of review mandated by this Court in *Presbyterian Church in the United States* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church,* 393 U.S. 440, 450-451 (1969), discussed *supra.*

The problem arises, in this case and potentially in many others, from the Illinois Court's expansive interpretation of "arbitrariness." That term, unlike "fraud" or "collusion," cannot be said to have any well-defined meaning in this context. As the Illinois decision shows, it is possible for a court to misinterpret "arbitrariness" in a manner which extends the judicial role in church cases far beyond the "marginal" and "narrowest kind" of review contemplated by this Court.

The kind of reviewing authority assumed by the Supreme Court of Illinois over church tribunals includes at least two elements which constitute dangerous inroads upon the Constitutional guarantees of religious freedom and the rights of churches to regulate their own internal affairs.

First, the Supreme Court of Illinois appears to equate the standard of "arbitrariness" with a kind of review based on "manifest weight of the evidence." Indeed, the Supreme Court of Illinois expressly concluded that the trial court's finding that Dionisije's removal and defrockment were not the result of arbitrariness was "contrary to the manifest weight of the evidence." (App. A at 28.)

It is apparent that the Supreme Court of Illinois treated the case according to the same standards it would have used to review the decisions of an administrative agency or of a secular, private organization. But considering the strong prohibition expressed in the Constitution against governmental interference in the exercise of religion, it

is surely inappropriate to subject a decision of the Holy Assembly of Bishops of the Serbian Orthodox Church to the same type of procedural and substantive review as would be applied to a decision of the Illinois Commerce Commission, a civil service commission, or a local medical society.

Second, and perhaps more important, the approach adopted by the Supreme Court of Illinois necessarily involved the Court in a detailed analysis and interpretation of the internal regulations and practices of the Serbian Orthodox Church. The end result of this process was that the Court rejected the construction and interpretation of internal church laws and regulations made by the highest body of the Church; substituted its own interpretation; and thereby attempted to compel the Mother Church to reinstate a Bishop which it had removed and defrocked. Indeed, Dionisije himself had repeatedly repudiated the Mother Church and rejected any relationship with it. The Illinois Court took this action in the face of express provisions of the Church Constitution (see, *e.g.*, A. 1516) which make the Holy Assembly the final arbiter and interpreter of church law.

In reaching this result, the Illinois Court preferred the interpretation of the Church constitution, Penal Code and of other internal church regulations by Respondents' single alleged "expert" witness (a defrocked former Serbian Church cleric) over interpretations made by the Holy Assembly itself and expressed at the trial by Petitioners' five expert witnesses. Those witnesses consisted of three members of the Holy Assembly of Bishops (one of them the author of the Penal Code), and a Cleric who had served as Secretary of the Holy Synod for many years (each of whom came to America to testify), and a well-recognized

independent and learned theological scholar and expert in the field of ecclesiastical law.

This was not a case involving conceded or undisputed violations of church regulations by the hierarchical authorities. Rather, each of Respondents' complaints was based upon their disputing of the Holy Assembly's construction of church law. It is impossible to square the detailed parsing and weighing of internal church regulations found in the Illinois Court's opinion with the "marginal" and "narrowest kind" of review prescribed in this Court's decisions. Rather, the Illinois Court "injected the civil courts into substantive ecclesiastical matters"— an encroachment by secular authorities on religious liberty which is forbidden by this Court.

An extreme example of the lengths to which the Supreme Court of Illinois went in substituting its notion of proper procedure for the regulations adopted by the Church is found in the Court's treatment of Article 66 of the Penal Code. That article expressly provides that if a cleric of the Mother Church charged with a violation refuses to participate in the proceedings, he is deemed to acknowledge the charges against him, and subsequent proceedings will be concluded without his participation. (A. 1620-21.)

Despite the undisputed evidence that from the moment of his suspension Dionisije had refused to participate in the church proceedings, had defied and denounced the legitimate church authorities, and had taken the dispute to the civil courts, the Supreme Court of Illinois for some unexplained reason refused to sanction the use of the default procedures prescribed in Article 66 in Dionisije's case.

Apparently, the Illinois Court concluded that Dionisije should be excused for refusing to participate in the proceedings against him because he objected to some of the procedures being followed. But this conclusion makes a mockery of the Illinois Court's pretense that it was only reading and applying the Mother Church's own regulations. There is *no support* in the testimony or exhibits for the interpretation that an accused can safely "opt out" of the proceedings by making objections to the manner in which the proceedings are being conducted. None of the witnesses (including Respondents' alleged expert) testified to such an "interpretation" of church law.

The fact is that such judicial rewriting of church regulations as that in which the Illinois Supreme Court indulged must be expected if secular courts are allowed to set themselves up as appellate tribunals over the regularly constituted judicatories of hierarchical churches.

The decision of the Supreme Court of Illinois with respect to the continuing effectiveness of the suspension of Dionisije is constitutionally invalid on similar grounds. The Illinois Court held on rehearing that the suspension had expired on the ground that the Penal Code limits its operation to one year. That decision inexplicably refuses to toll the running of the one-year period by reason of the pendency of this lengthy civil litigation which was initiated by Dionisije himself.

Similarly, the Illinois Court reached the incredible result of forbidding the Mother Church from making any reorganization of its own Dioceses. Respondents' contention that this is a "property" case, is specious. Whoever administers the property, all agree that it must be held in trust for the benefit of the members of the Serbian Orthodox Church in the United States and Canada.

II.

A DECISION BY THIS COURT IS NECESSARY IN ORDER TO TERMINATE THIS LENGTHY LITIGATION AND RESOLVE THE CONFLICTS BETWEEN THE ILLINOIS DECISION AND THE DECISIONS OF OTHER COURTS.

This case has been in litigation since mid-1963. At least twelve other lawsuits involving Dionisije's defiance and rejection of Church authority and his instigation and leadership of the minority separatist movement have been filed in various state courts by church congregations. The complaints in these cases have requested the civil courts to determine whether control of the facilities and property of local churches should be awarded to Dionisije's followers or to those loyal to the Mother Church. Many of these cases have been fought to state courts of last resort and to this Court on petitions for certiorari. Eight of these suits were initiated by Dionisije's followers.

Nine of the ten suits which have been concluded were decided in favor of those loyal to the Mother Church on the same basic issues presented in this litigation.*

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* *Draskovich* v. *Pasalich*, 280 N.E. 2d 69 (Ind. App. 1972), *reh. den.*, 285 N.E. 2d 830 (1972), *cert. denied*, 414 U.S. 976 (1973); *Ralich* v. *Vukelich*, No. 1710, Ohio Court of Appeals, 9th Dist. (June 29, 1966); *Serbian Eastern Orthodox Congregation* v. *Serbian Eastern Orthodox Congregation*, 106 N.J. Super. 22, 254 A. 2d 119 (1969), *cert. denied*, 54 N.J. 516, 257 A.2d 113 (1969), *cert. denied*, 397 U.S. 961 (1970), *rch. den.*, 397 U.S. 1058 (1970); *Mirkovich* v. *Bozanich* (No. 109/1964, Supreme Court of Ontario, Canada, 4/20/64); *Drajelevich* v. *Rajsich*, 24 Ohio App. 2d 59, 263 N.E. 2d 778 (1970); *Radojevich* v. *Holy Resurrection Church* (No. 63 S 29832, Super. Ct., Cook Cty., Ill., 11/27/63); *Radako-*

(footnote continued)

Only this Court can terminate this lengthy, divisive and expensive litigation and put an end to a situation in which the decisions of the Mother Church have been recognized as valid in (*e.g.*) Indiana, in New Jersey, in Ontario, Canada, and by two courts in Ohio, while Dionisije's position has been upheld by the Supreme Court of Illinois and perhaps by one court in Ohio.

Furthermore, the circumstance that the opinion of the Supreme Court of Illinois states that the case is remanded to the trial court for "further proceedings" does not suggest that review by this Court should be postponed to a later appeal. The decision of the Supreme Court of Illinois is a final determination on all of the pending issues, and leaves nothing to be accomplished on remand. It is apparent from the opinion that the Supreme Court of Illinois has made final decisions concerning the validity of the Diocesan reorganization, of Respondents' attempted secession, and of the 1963-1964 removal and defrockment proceedings against Dionisije.

Of course, the opinion allows the Mother Church to institute new proceedings against Dionisije. But any challenge to new disciplinary proceedings would have to be made in a new lawsuit.

(footnote continued)

vich v. *First Nat'l Bank of Joliet* (No. W 64 G 4 E, Cir. Ct., Will Cty., Ill., 2/5/69); *Ellesin* v. *Mijatovich* (No. 17363, Cir. Ct., Wayne Cty., Mich., 2/21/64); *Holy Resurrection Church* v. *Milivojevich* (No. 63 S 34967, Super. Ct., Cook Cty., Ill., 12/6/66) (consent decree against Dionisije). The tenth case is distinguishable in that the Court did not rule on the validity of the acts of the Mother Church. *Serbian Orthodox Church Congregation of St. Demetrios* v. *Keleman*, No. 5914, Ohio Court of Appeals, 9th Judicial Dist. (8/11/71), *cert. denied*, 406 U.S. 906 (1972).

Moreover, it is certain that any new proceedings will be challenged by Dionisije and his followers irrespective of the nature and merits of the proceedings. More litigation instigated by them in the Illinois Courts will wend its way over the years to the Illinois Supreme Court. There the new proceedings will be subjected to the type of detailed, nit-picking review on procedural and substantive grounds which is suggested and encouraged by the opinion below. Consequently, the fact that the opinion contains an order of remandment does not detract from its essentially final character.

The decision of the Supreme Court of Illinois must be reviewed now by this Court so that the Serbian Orthodox Church, its clergy and its hundreds of thousands of faithful in this country are accorded the guarantees of the First and Fourteenth Amendments and this sad episode in the history of an ancient church may be brought to an end.

CONCLUSION

We respectfully pray, for the reasons stated above, that the petition should be granted.

Respectfully submitted,

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APPENDIX

APPENDIX A

No. 46670

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA et al., Appellees, v. DIONISIJE MILIVOJEVICH et al., Appellants.

Opinion filed March 24, 1975. — Rehearing denied May 29, 1975.

MR. JUSTICE KLUCZYNSKI delivered the opinion of the court:

This is a direct appeal granted under Supreme Court Rule 302(b) (50 Ill.2d R. 302(b)) from a judgment of the circuit court of Lake County principally involving a dispute over the control of the Serbian Eastern Orthodox Diocese for the United States of America and Canada (hereinafter the American-Canadian Diocese or the Diocese) and the property and assets of that diocese. The parties, as they are presently constituted, are as follows:

Plaintiffs:	Defendants:
Bishop Firmilian Ocokoljich	Bishop Dionisije Milivojevich
Bishop Gregory Udicki	Serbian Orthodox Monastery of St. Sava (monastery corporation)
Bishop Sava Vukovich	
Serbian Eastern Orthodox Diocese for the United States of America and Canada (the religious body in this country)	Serbian Eastern Orthodox Diocese for the United States of American and Canada (an Illinois religious corporation)

Plaintiffs sought, in part, to have the trial court find that Bishop Dionisije had been removed as bishop of the Diocese, that the Diocese had been reorganized into three new

dioceses, and that the three bishops be granted control of the Diocese [sic] and its property. Defendants filed a counterclaim seeking, among other relief, an injunction to prevent the plaintiffs from interfering with the assets of the defendant corporations. The circuit court held, in pertinent part, that Bishop Dionisije had properly been removed as bishop of the American-Canadian Diocese, that the reorganization of the Diocese into three new dioceses was illegal and invalid, and that only Bishop Firmilian as the duly appointed administrator of the Diocese could exercise authority over the Diocese and its property. Both plaintiffs and defendants appeal the trial court decision.

This case was originally filed in 1963 by the present defendants, and the plaintiffs countered by filing a separate complaint. Both parties sought the same relief as was stated above. The trial court consolidated the actions and, based upon the pleadings, depositions and affidavits, granted the defendants herein summary judgment and dismissed the complaint of the plaintiffs. On appeal, the appellate court reversed the summary judgment and the order dismissing the complaint, and remanded the cause with directions for a full hearing on the merits. (*Serbian Eastern Orthodox Diocese for United States of America and Canada* v. *Ocokoljich*, 72 Ill. App. 2d 444, *appeal denied*, 34 Ill.2d 631.) On remand and over defendants' objection, the trial court allowed the Serbian Eastern Orthodox Diocese for the United States of America and Canada, the religious body in this country, to be designated a party plaintiff.

The similarity of certain named parties involved in this appeal requires some clarification prior to any understandable recitation of the facts. In addition to the last-named plaintiff and the last-named defendant as previously set forth, there is the entity which is the subject of this controversy, the Serbian Eastern Orthodox Diocese for the

United States of America and Canada (the American-Canadian Diocese). The trial court on remand made certain findings of fact as to the existence of these parties, namely, that the Illinois religious corporation is a secular arm of the American-Canadian Diocese, and that the religious body in this country is a religious body duly organized and existing since 1921. The trial court, thus, found that the religious body in this country was synonymous with the American-Canadian Diocese. We conclude, however, that these findings are contrary to the manifest weight of the evidence, and they are, therefore, set aside. (*Turner* v. *Board of Education*, 54 Ill.2d 68, 72-73; *Kenny Construction Co.* v. *Metropolitan Sanitary District*, 52 Ill.2d 187, 196.) It is unnecessary at this point to relate the facts which form the basis of our determination, since the factual recitation which follows amply discloses that basis. The American-Canadian Diocese and the Illinois religious corporation (the last-named defendant) are one and the same as of the time of the Diocese's incorporation in May, 1935. If a distinction is to be made between the organizational entity of the Diocese and the individual church members of the Diocese when viewed as a common group, the latter could properly be referred to as a religious body. We do not infer, however, that this latter entity is represented by any of the plaintiffs in this action. The subject of this controversy and a party defendant is the American-Canadian Diocese organized as an Illinois religious corporation.

The complete factual background essential for an understanding of this case is not in all respects certain, since the parties are in dispute concerning it, and the trial court entered its findings of fact only as to those facts upon which it based its decision. We will recite the complete factual background as we understand it from the record and the briefs submitted by the parties. However, as to the testi-

mony of the numerous witnesses in the trial court, we will recite only that testimony we deem necessary for a complete determination of the issues on appeal.

In the 1890's, persons of Serbian descent migrated to North America, where they formed completely autonomous religious congregations throughout the United States and Canada. Until 1920 these Serbian Orthodox churches were under the jurisdiction of the Russian Orthodox Church, the oldest Orthodox church in this hemisphere. The Russian Orthodox Church, however, was burdened with its own requirements and was unable to care for the local Serbian needs. The minutes of early meetings of Serbian priests and people held in 1913 and 1916 indicate a strong desire by these people to have their churches in America under the jurisdiction of the Serbian Orthodox Church with its See in what is now Belgrade, Yugoslavia.

In 1913 a meeting of Serbian priests and people was called for the purpose of organizing the Serbian Orthodox Church in North America. During this meeting a constitution was drafted and accepted. Article 4 of this constitution provided that the Serbian Orthodox Church in the United States was to have its own Church National Representation and Church National Governing Body and that it would govern autonomously in matters of church, school, education and property.

In 1916 a Serbian Priests' Assembly was held and presided over by Bishop Evdokim of the Russian Orthodox Church. Business and problems facing the Serbian churches in America were discussed and resolved. A "Normal Constitution for the North American Orthodox Diocese" of 1909, apparently a constitution taken from the Russian Orthodox Church, was accepted by the priests' assembly with the necessary revisions to delete the references to the

Russian Orthodox Church and refer instead to the Serbian Orthodox Church. It was also decided that several paragraphs would be added to this constitution to describe the duties of the Bishop's Aides. The 32 Serbian Orthodox parishes existing in the United States at the time of this meeting were divided into 4 presbyteries or divisions: Eastern, Middle, First Western, and Second Western. The Bishop's Aides w re four Serbian priests elected to accept jurisdiction over the four presbyteries and to act as mediators between the bishop and the people.

In 1917 the Russian Orthodox Church sent Father Mardary Uskokovich (a Serbian educated in Russian Orthodox seminaries) to America with instructions to organize an independent Serbian diocese. Four years later the Holy Assembly of Bishops of the Serbian Orthodox Church sent a delegation to America to determine the status of the Serbian parishes. Apparently as a result of Father Mardary's efforts and the report of the delegation, the Serbian Orthodox Church recognized that the necessary structure was present in America for establishing a diocese, and designated a Serbian bishop to carry out the formal organization of a diocese. The designated bishop, however, did not become a permanent resident of the United States, and Father Mardary was appointed as Resident Administrator of the Diocese until his election as bishop of the Diocese by the Holy Assembly of Bishops in 1925.

In 1927 Bishop Mardary organized under the laws of Illinois a not-for-profit corporation named the Serbian Eastern Orthodox Diocese Council for the United States and Canada. The purpose of this corporation was to hold title to 30 acres of property in Libertyville, Illinois, which the bishop had purchased in 1924. The charter of this corporation was permitted to lapse, and, shortly before Bishop Mardary's death in 1935, the American-Ca-

nadian Diocese was incorporated pursuant to provisions of the Illinois Religious Corporation Act (Ill. Rev. Stat. 1973, ch. 32, pars. 176 through 188) under the name of the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

Acting under his authority as diocesan bishop, Bishop Mardary called the First Church National Assembly meeting, also known as a Sabor, for September 1, 1927. The invitation to this assembly was sent to all of the known Serbian Orthodox churches in the United States and Canada with the stated purpose of uniting them under one constitution. At the assembly meeting the constitution of the Serbian Orthodox Diocese for the United States of America and Canada was drafted and adopted.

Article I of the constitution provides that the American-Canadian Diocese "is considered ecclesiastically-judicially as an organic part of the Serbian Patriarchate in the Kingdom of Yugoslavia." Article 3 states that "the jurisdiction of the Serbian Orthodox Diocese *** includes the entire political territory of the United States of America and Canada, which as such *by its geographical location enjoys full administrative freedom and accordingly, it can independently regulate and rule the activities of its church, school and other diocesan institutions and all funds and beneficiaries, through its organs*, but in accordance with the laws of the constitution and in agreement with the laws of the United States [of America] and Canada." (Emphasis added.) Other pertinent provisions of the constitution provide that the bishop of the American-Canadian Diocese is appointed by the Holy Assembly of Bishops of the Serbian Patriarchate (article 9). When the seat of the diocesan bishop is vacated, the administration of the Diocese in spiritual and administrative matters is upheld by the Diocesan Ecclesiastical Court and the Diocesan Council until the appointment of an administrator by the Serbian Patriarch (article 13). The Diocesan National Assembly is the highest legislative and administrative authority of the American-Canadian Diocese with its executive and administrative organ being the Diocesan Council (article 5). The Diocesan National Assembly, which meets every third year in the month of September or on a day designated by the diocesan bishop (article 20), is composed basically of two delegates from every Serbian church-school congregation, all Serbian clergy, the diocesan bishop and the Diocesan Council (article 16). The diocesan bishop is the president of the Diocesan National Assembly (article 22) and the Diocesan Council (article 30). A function of the Diocesan National Assembly is to decide on changes and amendments to the constitution "with the approval of the Holy Bishops' Assembly of the Serbian Patriarchate." Article 23.

The constitution further provides that the property of the individual church-school congregation belongs exclusively to that congregation with no diocesan rights to it (article 147). All property owned by the American-Canadian Diocese is to serve "exclusively for the purpose designated by the statutes of this [C]onstitution and cannot be used for any other purpose." Article 149.

Following its adoption by the Diocesan National Assembly, the constitution was submitted for approval to the Holy Assembly of Bishops of the Serbian Orthodox Church. In 1928 the Holy Assembly approved the "autonomous administration" of the American-Canadian Diocese, but struck an initial provision which provided that the Diocesan National Assembly would elect its own bishop. It inserted the present article 9, which provides that the Holy Assembly appoints the diocesan bishop. The Holy Assembly also insisted that, as a condition for approval, all amendments

to the constitution initiated only by the Diocesan National Assembly would require the approval of the Holy Assembly. The diocesan constitution, as then approved by the Holy Assembly of Bishops, remains, in substance, in force and effect today. It is undisputed that the Diocese thereby became the only diocese in the Serbian Orthodox Church with its own constitution.

In 1945, the property located in Libertyville, which had come to be called the St. Sava Monastery, was transferred to an Illinois not-for-profit corporation organized under the name of the Serbian Orthodox Monastery of St. Sava (monastery corporation). The bylaws of this corporation provide that it is an autonomous Serbian Church institution, and that it "possesses its own property which cannot be disposed of, sold, mortgaged or otherwise conveyed by any Serbian Church authority, without the consent and approval of the Diocesan Council, headed by the Bishop and the Diocesan Church convention." (Bylaw 2.) They further provide that the president of the Board of Directors is the canonical bishop of the Diocese "received as such by the Diocesan Council *** Church Court and *** Convention." (Bylaw 6.) In addition to the monastery corporation, two other not-for-profit corporations organized under the respective laws of California and Pennsylvania hold title to large parcels of property located in these two States.

The Serbian Orthodox Church with its See in Belgrade, Yugoslavia, is one of the 14 autocephalous churches resulting from the great schism in 1054 when the universal Christian church was divided into the churches of the west (the Roman Catholic Church) and the churches of the east (the Orthodox Church). In 1931 the Serbian Orthodox Church adopted a constitution which was substantially revised in 1947 due to changes in its relationship with the

communist government of Yugoslavia. Subsequent amendments to the revised constitution are not pertinent to this controversy except for the amendment of May 10, 1963.

The Serbian Orthodox Constitution provides, in pertinent part, that the Serbian Orthodox Church is autocephalous and governs and regulates independently all of its religious affairs, and that it maintains dogmatic and canonical unity with all other Orthodox churches (article 1). The church has the rank of Patriarchate (article 2). Article 10 states that in the Serbian Orthodox Church there are six levels of church hierarchical and administrative authorities, bodies and organs. The highest two levels are relevant here. The first level consists of the Patriarch, Holy Bishop's Council and Holy Synod, High Ecclesiastical Court, Patriarchal Council and Patriarch[al] Board. The second level consists of the diocesan bishop, diocesan ecclesiastical court, diocesan council and executive board. Article 12 states that the Serbian Orthodox Church is episcopal, with its main administrative division composed of dioceses, both in respect to church hierarch[ic]al and church administrative aspects. Article 14 lists 24 dioceses which are "the dioceses in the Serbian Orthodox Church." Article 15 then provides that in addition to those dioceses already mentioned there are, "under the jurisdiction of the Serbian Orthodox Church in spiritual and hierarchical aspect," dioceses outside the country. Among those listed is "The Serbian Orthodox Church in the United States of America and Canada, with its seat in Chicago or in the monastery of St. Sava, at Libertyville, Illinois." Article 16 states that "(d)ecisions of establishing, naming, liquidating, reorganizing, and the seat of the dioceses *** are decided upon by the Holy Council of Bishops, in agreement with the Patriarchal Council."

The church's governing functions are divided among three entities. The Holy Assembly of Bishops, also referred to as the Holy Bishop's Council, meets once a year and is the legislative body composed of the bishops of the various dioceses (articles 57, 69). The Holy Synod of Bishops is the executive body composed of four bishops and the Patriarch (articles 59, 70). The Patriarch, who is the presiding officer of both the Holy Assembly and the Holy Synod, is also a bishop and is considered the "first among equals."

The Supreme Ecclesiastical Court supervises the judicial authority of the church (article 7). However, special judicial authority is vested in the Holy Synod and the Holy Assembly for particular cases. Articles 57, 59.

In 1961 the Serbian Orthodox Church adopted a revised penal code for Ecclesiastical Courts which detailed the offenses, procedures and punishments of the church. The provisions of this code relevant to the issues raised on appeal will be discussed as they are pertinent.

Bishop Dionisije Milivojevich was elected Bishop of the American-Canadian Diocese in 1939 by the Holy Assembly of Bishops. As early as 1951 Bishop Dionisije requested the Patriarch and the Holy Assembly of Bishops to appoint assistant or vicar bishops to the American-Canadian Diocese. The Diocese, with its church-school congregations, was expanding, and Bishop Dionisije believed that the geographical boundaries of the Diocese should be increased by the addition of South America. These requests and similar requests continued until 1960, when the Diocesan National Assembly formed the opinion that the Diocese should be elevated to the rank of Metropolia and that two or three vicar bishops should be appointed under Bishop Dionisije. In the spring of 1962 a delegation from the Diocese was sent to the Patriarchate to discuss this matter, and on June 12, 1962, the Holy Assembly of Bishops directed the Holy

Synod to appoint a delegation to visit the United States and study the proposals. Bishop Dionisije made it quite clear in a letter to the Patriarch on July 30, 1962, that he was opposed to any reorganization of the Diocese into several dioceses as had previously been suggested. Bishop Dionisije expressed doubt that the people of the Diocese would accept such a division.

Tangential to the issue of the reorganization of the Diocese was a second issue—the charges and accusations against Bishop Dionisije for personal misconduct. As early as his appointment as diocesan bishop, and throughout his administration, letters were written to the Holy Synod challenging Bishop Dionisije's fitness to serve as bishop and control the Diocese. Consequently, the delegation appointed in June, 1962, by the Holy Synod was also instructed to make a study of the charges and accusations against Bishop Dionisije.

The delegation arrived in September, 1962, and visited throughout the Diocese for approximately three months. Among its pertinent recommendations, the delegation advised the Holy Synod that vicar bishops should be assigned to the American-Canadian Diocese and that a commission should be appointed to investigate the accusations against Bishop Dionisije.

On May 10, 1963, the Holy Assembly of Bishops met and at its morning session considered the complaints against Bishop Dionisije that had been sent to the Holy Synod and those that had been brought back by the 1962 delegation. It recommended that the Holy Synod initiate disciplinary proceedings against Bishop Dionisije. The Holy Assembly then recessed its meeting while the Holy Synod met, suspended Bishop Dionisije and appointed Bishop Firmilian, who held the rank of Arch[i]mandrite, as administrator of the American-Canadian Diocese. The Holy

Assembly then resumed its meeting and, purporting to act upon the basis of article 16, amended the constitution of the Serbian Orthodox Church by deleting mention of the American-Canadian Diocese from article 15. In substitution, the Holy Assembly added articles 15—1 to 15—3, which attempted to establish in the territory of the American-Canadian Diocese three new dioceses: the Middle Western, the Western and the Middle Eastern. Bishop Dionisije, still under suspension, was transferred to the Middle Western Diocese. Seven days after this reorganization, the Holy Synod appointed as temporary administrators for the respective new dioceses Arch[i]mandrites Firmilian, Gregory and Stefan.

Upon learning of the Holy Assembly's action, Bishop Dionisije refused to accept the division of the Diocese, since the reorganization purportedly disregarded the autonomy provided for in the diocesan constitution and the action was taken without the agreement of the people of the Diocese. He also refused to accept his suspension, claiming that he was not given a prior hearing as required by the constitution of the Serbian Orthodox Church or the church's penal code. The Diocesan Council informed the Holy Synod on June 9, 1963, that the rejection or acceptance of this division would be decided by the Diocesan National Assembly which was originally scheduled to meet in October, 1963, but which would now meet in early August to consider this question. The Diocesan Council also petitioned the Holy Synod to send a committee to investigate the charges against Bishop Dionisije as soon as possible, since no changes would be made in the administration of the Diocese prior to the Diocesan National Assembly meeting.

The Holy Synod appointed a commission to investigate the charges against Bishop Dionisije on June 13, 1963. The commission met with Bishop Dionisije on July 5, 1963, at which time the bishop repeated his refusal to recognize the division of the American-Canadian Diocese or his suspension, and demanded written copies of all the charges against him. The commission, which had all the written charges in its possession, refused to show the bishop the charges on the basis that his refusal to accept the decisions of the higher church authorities was sufficient to establish his wrongful conduct without the need to investigate the personal charges against him. Prior to the meeting with Bishop Dionisije, the commission had made no investigation of any of the charges. Following this meeting, according to the testimony of one member of the commission, no investigation was conducted, while another member stated that the commission did receive further charges and spoke with some accusers. On July 6, 1963, the commission issued a proclamation which, in effect, stated that Bishop Dionisije was guilty of violations meriting the stripping of his episcopal rank and his excommunication from the church. The commission called upon all faithful Serbian people not to recognize the bishop, but rather to subordinate themselves to the administrators appointed by the Holy Synod.

On July 27, 1963, a special session of the Holy Assembly of Bishops met to consider the report given by a member of the investigation commission. The report recited, among other points, that Bishop Dionisije refused to accept the decisions of the Holy Assembly and Holy Synod dividing the one diocese into three, and suspending and removing him from governing the Diocese. It stated Bishop Dionisije would not recognize the court of the Holy Synod, nor would he recognize its judicial competence.

The report recommended that Bishop Dionisije be deposed as diocesan bishop. The Holy Assembly voted to adopt the report and decision of the investigation commission. Bishop Firmilian was then elected bishop of the Middle Western Diocese.

In August, 1963, the emergency session of the Diocesan National Assembly met and issued a resolution refusing to recognize the validity of the decisions of the Holy Assembly and the Holy Synod regarding the division of the American-Canadian Diocese. The National Assembly demanded the revocation of these decisions and adjourned its meeting until November to provide time for the Holy Assembly to withdraw its decisions. The Holy Assembly refused to reconsider, and in November the Diocesan National Assembly declared the American-Canadian Diocese completely autonomous and, as such, refused to comply with orders issued by the Holy Assembly. Moreover, the National Assembly reinstated those provisions of the diocesan constitution allowing the diocese to elect its own bishop and amend its constitution without prior approval of the Holy Assembly.

During September, 1963, the Holy Synod appointed a prosecutor to draft an indictment against Bishop Dionisije based upon the charges received by the Holy Synod and the investigation commission. The indictment was sent to the bishop, and in November he wrote to the Holy Synod requesting, under article 67 of the Penal Code, copies of the "enclosures" referred to in the indictment, which were the written complaints and letters from his accusers. The indictment, as evidenced by the enclosures submitted before the trial court, was based, in part, upon unsigned letters and complaints, many of which failed to state the time or place of the alleged offense. Bishop Dionisije also requested a 6-month extension to answer the indictment, because it was extremely long (37 pages) and he was

recuperating from a recent automobile accident. In December, the Holy Synod refused the request to provide the "enclosures" but granted a 30-day extension in which to answer the indictment. Bishop Dionisije returned the indictment in January, 1964, stating that he could not answer the indictment without the "enclosures," that the Holy Synod and the Holy Assembly were violating the church penal code and constitution, that no investigation had been made, and that he could not bring his witnesses to Belgrade for trial.

On March 5, 1964, the indictment was verbally amended by the prosecutor before the Holy Assembly to include the alleged offenses Bishop Dionisije had committed since the indictment was drafted. These alleged offenses were his joining with the Diocesan National Assembly to declare the American-Canadian Diocese completely autonomous and to set up a hierarchy outside of the Serbian Orthodox Church by the election and consecration of a diocesan-chosen bishop. By the Holy Assembly's decision, a copy of the amended indictment was not forwarded to Bishop Dionisije on the basis that he had refused to answer the first indictment. Bishop Dionisije also was not informed of this meeting. The Holy Assembly considered the original indictment and the amended indictment and found Bishop Dionisije guilty of all charges. He was divested of his episcopal and monastic ranks and returned to the status of a layman. Among those who voted on the question of Bishop Dionisije's guilt were bishops who had been either members of the 1962 delegation to the American-Canadian Diocese, which had received charges against Bishop Dionisije, or members of the 1963 investigation commission. The bishop who had been appointed prosecutor and who had drafted the indictment also took part in the vote.

The Holy Assembly at this time also declared the meeting of the Diocesan National Assembly in August and November, 1963, illegal, since it was presided over by the deposed Bishop Dionisije contrary to the constitution of the American-Canadian Diocese. It proclaimed that all decisions made by the National Assembly were unlawful and unconstitutional.

On remand of this case (72 Ill. App. 2d 444) to the trial court for a hearing on the merits, testimony was presented as to the correctness of the proceedings against Bishop Dionisije under the constitution and the penal code of the Serbian Orthodox Church.

Bishop Visarion Kostich, a member of the 1963 investigation commission and the author of the penal code, testified that in 1963 the constitution of the Serbian Orthodox Church provided that canonical offenses of a bishop were to be judged by the Holy Synod as the court of "first instance" (article 70). Under article 69 the Holy Assembly of Bishops was to review appeals from the decisions of the Holy Synod, and it was the court of "second instance" in the case of a bishop. He stated, however, that though the constitution was in full force and effect in 1963, the provisions of article 70 were never applied. Moreover, he asserted that the Holy Assembly can take upon itself the privilege of adjudicating a case. Articles 69 and 70 have been amended since the proceedings against Bishop Dionisije to provide that canonical offenses of a bishop are judged by the Holy Assembly.

Bishop Visarion testified that the meeting of the Holy Assembly on July 27, 1963, did not consider the guilt or the charges against Bishop Dionisije. Rather, it considered whether Bishop Dionisije had violated his episcopal oath, which was interpreted as a condition required for a dio-

cesan bishop under article 104 of the Serbian Orthodox Constitution. Bishop Visarion stated that no canonical verdict was rendered against Bishop Dionisije by the Holy Assembly, but a decision was made to relieve him of duties under article 111 of the constitution. Article 111 provides for removal of a diocesan bishop only by canonical verdict or for release upon proof of the loss of a condition under article 104. Bishop Visarion admitted that contrary to article 67 of the penal code no charges had been served on Bishop Dionisije prior to the July 27, 1963, meeting of the Holy Assembly. He stated that though the penal code requires that charges against an accused specify the time, place and manner of offense, certain allegations in the indictment against Bishop Dionisije failed to meet this requirement. The Holy Assembly, however, found that from the formal respects everything was in order, and that determination, Bishop Visarion maintained, was the Holy Assembly's right.

Bishop Visarion was recalled as a witness just over one year after his initial testimony in this case. At that time he testified that canonical offenses of a bishop are not judged in the first instance by the Holy Synod and that there is no provision in the constitution so requiring. He stated that the Holy Synod merely investigates the matter, examines the complaint, the indictment and the reply, and forwards the matter to the Holy Assembly. Bishop Visarion testified that article 65 of the penal code pertains to due process in penal matters, and it provides that unsigned submissions "shall not in any case be taken into consideration or process." He explained that this does not prohibit unsigned complaints from being considered by the investigators, but refers solely to documents submitted in court. He interpreted the penal code as not requiring that

the complaints or documents identified in the indictment be forwarded to the accused, but as requiring that only the text of the indictment need be sent. Bishop Visarion further stated that Bishop Dionisije was not notified of or invited to the March 5, 1964, meeting of the Holy Assembly at which he was defrocked, nor was he served with a copy of the amended indictment upon which the Holy Assembly voted. He asserted that nothing was improper by this action since Bishop Dionisije had placed himself outside the church by refusing to take part in the proceedings. Bishop Visarion, who participated in the Holy Assembly meeting and signed the judgment against Bishop Dionisije, was of the opinion that it was not improper for a person to vote on the judgment though that person had participated in the investigation or was personally interested in the matter.

Father John Meyendorff, a priest of the Russian Orthodox Church and a professor of patristics and church history, testified for plaintiffs as an expert witness on ecclesiastical law and procedure. He stated that he examined the constitution of the Serbian Orthodox Church and the constitution of the American-Canadian Diocese, and studied the orders and decision of the Holy Assembly in 1963 respecting the suspension, deposition and defrockment of Bishop Dionisije. In his opinion Bishop Dionisije was properly suspended, deposed and defrocked. He was aware that the bishop who prepared the indictment against Bishop Dionisije participated in the March, 1964, meeting of the Holy Assembly at which Bishop Dionisije was defrocked. He stated, however, this made no difference in his opinion, because he knew of no church rule which prohibited this. In his view, the bishop had a duty to vote on an issue of such importance.

On cross-examination he testified that in forming his opinion he assumed the action against Bishop Dionisije was taken by men of good spirit under the rules of the Serbian Orthodox Church. He stated that having read the indictment against Bishop Dionisije he assumed the charges, by and large, were true, and that this assumption was part of the basis for his opinion. He further stated that a very important element in forming his opinion was the consensus among the Orthodox churches and bishops that the suspension, deposition and defrockment of Bishop Dionisije were valid. A suspension, he related, was a temporary measure of general practice under canon law when a person is called for trial. Father Meyendorff admitted he had not read and was not familiar with the penal code of the Serbian Orthodox Church. In giving his opinion he did not consider whether or not the proceedings against Bishop Dionisije complied with the penal code. Having familiarized himself with the exhibits, he stated that his impression was that the procedures were correct. He further testified that procedural rules are obligatory on the body which issued and applied them.

During cross-examination Father Meyendorff was asked to read a plaintiffs' exhibit which was a translation of an excerpt of the minutes of the meeting of the Holy Assembly on July 27, 1963, when Bishop Dionisije was deposed. In regard to this exhibit, which he referred to as relating to the deposition of Bishop Dionisije, he stated the text definitely implied that the action against Bishop Dionisije was an ecclesiastical punishment or reprimand, though the text did not defrock or impose a penance on him. The exhibit indicated that the Holy Assembly sat in judgment of Bishop Dionisije and removed him as diocesan bishop for cause.

Father Meyendorff stated that a bishop is the defender and advocate of religious and doctrinal matters in the diocese. He testified that there were instances in Orthodox Church history where a bishop severed ties with the Orthodox Church in defense of his diocese. As an example of this, Father Meyendorff referred to his own church, the Russian Orthodox Church in America, which broke ties with the Patriarch of Moscow.

On redirect examination, Father Meyendorff stated that he had an opportunity during a recess in the trial to read two paragraphs of the penal code referred to in the deposition of Bishop Dionisije. While the record is unclear, the two paragraphs were apparently article 67, which deals with due process, and article 90, which covers the jurisdiction of the Holy Assembly and the Holy Synod in cases involving a bishop. Father Meyendorff testified that having read these paragraphs he still maintained that the proceedings against Bishop Dionisije were proper.

Father Zivan Stefanovic, who served as referent in legal matters to the Holy Synod from 1952 until 1965, and was editor of the *Herald,* an official journal of the Serbian Orthodox Church, from 1955 until 1965, was recognized by the court as an expert in the interpretation of the penal code. Father Stefanovic testified that in cases involving bishops the constitution envisioned the Holy Synod as the court of first instance and the Holy Assembly as the court of second instance. He referred to articles 70.35 and 69.27B of the constitution, which provide for these respective courts. Article 63 of the penal code provides for the judgment of a bishop and repeats, in substance, the regulations of the constitution. He stated that article 63 requires the court of first instance to make a decision in the case under consideration. Article 64 of the penal code provides that

the court which had jurisdiction for starting a procedure retains jurisdiction until the end of the procedure. He further stated that under article 69.27 of the constitution and article 78 of the penal code judgments of the court of first instance are appealable to the court of second instance. Father Stefanovic testified that under articles 77 and 124 of the constitution and articles 82.2 and 82.3 of the penal code certain members are prohibited from participating in the judgment of a case when the Holy Synod acts as a court. The same articles apply to the Holy Assembly when it acts as a court. These articles refer to persons who participated in the investigation, were personally interested or were disqualified from the deliberations.

Father Stefanovic said that article 67 of the penal code provides an accused with the right to receive the complaints against him. He testified that during 1963 and 1964 the Serbian Orthodox Church was in the practice of providing copies of the complaints to the accused under this article. During the 30 years he was involved in court proceedings, there was never an occasion when an accused was not provided with the written complaints to which he could reply. Father Stefanovic asserted that under article 67 of the penal code the proper procedure for conducting an investigation requires the investigator to set up a time and place for the accused and witnesses to appear before him at a hearing. The witnesses are called individually to explain what they saw, heard or experienced, and the accused is then given an opportunity, through the investigator, to request further explanation. Unsigned complaints, he stated, cannot even be given to the investigator under article 65 of the penal code.

Father Stefanovic testified he knew of no case in the Serbian Orthodox Church where a bishop was removed

from a diocese without his consent or agreement. He stated that under article 217 of the constitution a clergyman or bishop can be transferred into another parish or diocese only after the judgment of a church court, and under article 111 a bishop can be removed only by canonical verdict resulting from a trial by the Holy Synod in the first instance. He stated further that articles 216 and 217 of the constitution and article 55 of the penal code provide penalties for offenses of a serious nature, which include transfer to another place of service, and loss of a place of service for those who are not parish priests. Under article 218 of the constitution and the third paragraph of article 67 of the penal code, no one can incur any church penalty without a prior hearing. Father Stefanovic said that article 71 of the penal code mandates the steps the Holy Synod must take when it acts as a court. It must consider all documents and, on the basis thereof, vote first on the issue of guilt and, finally, on the question of punishment.

During his testimony Father Stefanovic related his contact with the proceedings against Bishop Dionisije. Among these incidents, he stated he was called by the Holy Synod on December 10, 1963, along with a theology professor to give an expert opinion as to the offenses of Bishop Dionisije. He was asked whether the written complaints should be furnished to Bishop Dionisije as he had requested. Father Stefanovic told the Holy Synod that the written complaints should be furnished, since the penal code and the practice in previous years dictated it. Following this occurrence, Father Stefanovic had no further contact with the proceedings until March, 1964, when he was told the decision of the Holy Assembly and was assigned to draft the formal judgment.

Father Stefanovic gave his opinion as to the proceedings against Bishop Dionisije. He stated that under the Serbian Orthodox Constitution and the penal code the Holy Assembly could not transfer Bishop Dionisije to a newly created diocese without a previous hearing, investigation and judgment brought by the Holy Synod. The process of the investigation commission did not conform with the law of procedure, since the commission did not hold a hearing of witnesses or collect proof of the charges. The accusations and allegations against Bishop Dionisije were taken as evidence when, in fact, these complaints had to be proved. Moreover, Bishop Dionisije was not given an opportunity to answer all the accusations, nor did he receive proof of the charges which were used to describe his offenses and upon which the judgment was based. Father Stefanovic maintained that Bishop Dionisije could not be deposed from his diocese before the Holy Synod entered judgment that his transgressions were proved and that he was to be punished by deposition. Bishop Dionisije was not furnished with a copy of the amended indictment, which contained the most serious offenses, before it was submitted to the Holy Assembly. Father Stefanovic stated that even assuming the Holy Assembly was competent to judge Bishop Dionisije in the first instance, it should not have considered the amended indictment, since the prosecution did not follow the prescribed procedure. It was noted that the indictment itself provided on the first page that the Holy Synod was authorized under the constitution and the penal code of the Serbian Orthodox Church to judge in the first instance the case of Bishop Dionisije. Father Stefanovic concluded that the defrockment was improper because the Holy Assembly acted as the court of first instance in violation of article 70.35 of the Serbian Orthodox Constitution, and by this procedural violation Bishop Dionisije was precluded from having a court of second instance to which to appeal.

On cross-examination, in an apparent attempt to discredit Father Stefanovic's credibility, plaintiffs brought out that he was the subject of disciplinary proceedings by the Serbian Orthodox Church following his departure from Yugoslavia in 1965. During his cross-examination on the penal code, Father Stefanovic made reference apparently to article 66, which provides, basically, that if a person charged with a violation refuses to participate in the proceedings, then it is considered that he acknowledges the charges against him and due process will be concluded without his participation.

Numerous persons testified at trial who purportedly had witnessed or accused Bishop Dionisije of personal misconduct. These persons had all been named in the indictment or the enclosures to it. While it is unnecessary to relate the content of this testimony, since the trial court did not base its decision on the alleged personal transgressions of Bishop Dionisije, we note that the majority of these witnesses testified that they had no knowledge of any personal misconduct by Bishop Dionisije, had not made any accusations against the bishop, and had never been interviewed by the 1963 investigation commission. Between this majority and the minority who did testify as to personal misconduct by Bishop Dionisije, there were factual disputes as to the occurrence of the alleged specific incidents. Certain members of this minority group admitted that some accusations they had made were not based on personal knowledge, but on information they had received from other people. Some members of this minority were clergy, and they admitted that they had previously been disciplined by Bishop Dionisije. And, finally, certain members conceded that they had never been interviewed by the 1963 investigation commission.

Three primary issues are raised in this appeal. Bishop Dionisije challenges the validity of his transfer, deposition and defrockment. Secondly, plaintiffs contend that the Holy Assembly of Bishops had the power to reorganize the American-Canadian Diocese into three new dioceses. And, finally, the American-Canadian Diocese and the monastery corporation, defendants herein, argue that the relationship between the Serbian Orthodox Church and the Diocese has been terminated by either the attempted reorganization of the Diocese by the Holy Assembly of Bishops or by the November, 1963, resolutions of the Diocesan National Assembly. Antecedent to the first issue, and less specifically to the remaining issues, is the question whether the decision of the highest church authority can be reviewed by the civil courts.

Plaintiffs argue and defendant Bishop Dionisije does not dispute that the Serbian Orthodox Church is a hierarchical and episcopal church. Moreover, the parties agree that in cases involving hierarchical churches the decisions of the proper church tribunals on questions of discipline, faith or ecclesiastical rule, though affecting civil rights, are accepted as conclusive in disputes before the civil courts. (See *Watson* v. *Jones,* 80 U.S. (13 Wall.) 679, 727, 20 L. Ed. 666, 676; *Gonzalez* v. *Roman Catholic Archbishop,* 280 U.S. 1, 16, 74 L. Ed. 131, 137, 50 S. Ct. 5.) All parties maintain that the sole limitation on this rule, when civil courts may entertain the "narrowest kind of review," occurs when the decision of the church tribunal is claimed to have resulted from fraud, collusion or arbitrariness. (*Gonzalez* v. *Roman Catholic Archbishop,* 280 U.S. 1, 16, 74 L. Ed. 131, 137, 50 S. Ct. 5; *Presbyterian Church* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church,* 393 U.S. 440, 447, 451, 21 L. Ed. 2d 658, 664, 89 S. Ct. 601.) Plaintiffs assert that they are un-

able to cite any case wherein a court has interjected itself into a dispute on this basis. And plaintiffs urge that the trial court was correct in its finding that Bishop Dionisije failed to prove that his suspension, transfer, deposition and defrockment resulted from fraud, collusion or arbitrariness.

Having reviewed the record, we find that Bishop Visarion's testimony as to the correct procedure for trial of a bishop was contradictory, and Father Meyendorff's opinion in regard to Bishop Dionisije's deposition and defrockment was premised upon an assumption which did not consider the penal code. Conversely, Father Stefanovic, who served as legal referent to the Holy Synod and was obviously viewed by it as a legal expert, stated that Bishop Dionisije's transfer, deposition and defrockment were in violation of the constitution and the penal code of the Serbian Orthodox Church.

We note that while Bishop Visarion viewed the Holy Assembly's action on July 27, 1963, as a "release" of Bishop Dionisije under article 111 of the constitution and not as a removal, other witnesses were not in accord. Father Meyendorff, a witness called by the plaintiffs, referred to the Holy Assembly's action as the deposition of Bishop Dionisije and his removal from his duties in the American-Canadian Diocese. Father Stefanovic also viewed the action as a removal from the Diocese. Moreover, plaintiffs argue in their brief that the action was a proper "removal" under the constitution and the penal code of the Serbian Orthodox Church.

Article 66 of the penal code provides that if a person charged with a violation refuses to participate, due process will be concluded without his participation. The application of this provision, however, must be viewed from the perspective that Bishop Dionisije refused to participate because he maintained that the proceedings against him were in violation of the constitution and the penal code of the Serbian Orthodox Church.

In determining the issue before us, this court has limited itself to the "narrowest kind of review," to what Justice Frankfurter referred to as "one aspect of the duty of courts to enforce the rights of members in an association, temporal or religious, according to the laws of that association." (*Kedroff* v. *St. Nicholas Cathedral of the Russian Orthodox Church in North America*, 344 U.S. 94, 122, 97 L. Ed. 120, 139, 140, 73 S. Ct. 143 (concurring opinion).) Similarly, this court recognized in *Schweiker* v. *Husser*, 146 Ill. 399, 415, 425, that the decisions of the highest church authority properly within the sphere of ecclesiastical matters are not binding upon civil courts if "they are clearly and manifestly repugnant to the established laws" of the church authority, or "in clear and palpable excess of its own jurisdiction * * *." Though this rule was expressed in *Schweiker* decades before the decision in either *Gonzalez* v. *Roman Catholic Archbishop*, 280 U.S. 1, 16, 74 L. Ed. 131, 137, 50 S. Ct. 5, or *Presbyterian Church* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440, 447, 451, 21 L. Ed. 2d 658, 664, 89 S. Ct. 601, it is consistent with the limitation on judicial review enunciated by the United States Supreme Court in these later cases.

A detailed review of the evidence discloses that the proceedings resulting in Bishop Dionisije's removal and defrockment were not in accordance with the prescribed procedure of the constitution and the penal code of the

Serbian Orthodox Church. While plaintiffs have argued that the evidence demonstrated Bishop Dionsijie's defiant and dissident attitude toward the Serbian Orthodox Church, this, nevertheless, is not a factor in determining whether the prescribed church procedures were followed in the proceedings against him. Accordingly, the trial court's finding that Bishop Dionisije's removal and defrockment were not the result of arbitrariness must be set aside as contrary to the manifest weight of the evidence. The question of Bishop Dionisije's suspension under church procedure has not been challenged, and there is no evidence of impropriety in regard to it. Thus, the trial court's finding in this matter will not be disturbed. *We note, however, that article 19 of the Serbian Orthodox constitution provides for suspension until the verdict of the church court is rendered, and "the court is obligated to make a decision within a period of one year." Since no valid action to resolve this matter was effected by church authorities within this period, it would appear from the language of article 219 and the testimony of Father Meyendorf[f], previously set forth in relation thereto, that the suspension of Bishop Dionisije is not presently effective.* Moreover, because Bishop Dionisije's removal and defrockment were in violation of church procedure, consideration of the remaining charges need not be undertaken.

Plaintiffs maintain that the reorganization of the American-Canadian Diocese into three new dioceses was authorized by the constitutions of both the Serbian Orthodox Church and the American-Canadian Diocese. Plaintiffs' contention, however, rests upon the premise that the American-Canadian Diocese is no different from any other diocese over which the Serbian Orthodox Church

has complete authority. The issue involved here was considered and resolved adversely to plaintiffs in both the appellate court and the trial court on remand. The appellate court opinion, which was based solely upon the pleadings, depositions and affidavits, properly disposed of this issue. 72 Ill. App. 2d 444, 458-59.

As recognized in *Watson* v. *Jones*, 80 U.S. (13 Wall.) 679, 20 L. Ed. 666, 670, the United States Supreme Court stated:

> "Religious organizations come before us in the same attitude as other voluntary associations for benevolent or charitable purposes, and their rights of property, or of contract, are equally under the protection of the law, and the actions of their members subject to its restraints. Conscious as we may be of the excited feeling engendered by this controversy, and of the extent to which it has agitated the intelligent and pious body of Christians in whose bosom it originated, we enter upon its consideration with the satisfaction of knowing that the principles on which we are to decide so much of it as is proper for our decision, are those applicable alike to all of its class, and that our duty is the simple one of applying those principles to the facts before us."

While the constitutions of the American-Canadian Diocese and the Serbian Orthodox Church deal primarily with religious matters, they do contain clear and specific provisions concerning the relationship between the Diocese and the Serbian Orthodox Church as regards administrative autonomy. A consideration of these constitutions in regard to the "full administrative freedom" enjoyed by the Diocese does not in any way entangle this court in the determination of theological or doctrinal matters. (See *Maryland and Virginia Eldership of the Churches of God*

v. *Church of God,* 254 Md. 162, 254 A.2d 162, *appeal dismissed,* 396 U.S. 367, 24 L. Ed. 2d 582, 90 S. Ct. 499.) The determination of this issue is made without the resolution of doctrinal questions and without extensive inquiry into religious polity. The fact that the provisions of the constitutions pertinent to this issue are interspersed with other provisions relating to religious rites and doctrines does not preclude judicial review. It is doubtful that there are many church constitutions, charters or documents concerning the relationship and rights between two religious bodies that cannot be said to contain provisions relating to religious rites or doctrines. Therefore, to hold that review is precluded would leave the principle expounded in *Gonzalez* and *Mary Elizabeth Blue Hull* without meaning.

The issue raised here is analogous to the first issue. Bishop Dionisije maintained the proceedings against him were not in accord with the requirements of the constitution and the penal code of the Serbian Orthodox Church. Here, the American-Canadian Diocese maintains the reorganization was in violation of the constitutions of the Diocese and the Serbian Orthodox Church. The determination of this issue, as with the first issue, is merely the enforcement of "the rights of members in an association * * * according to the laws of that association." *Kedroff* v. *St. Nicholas Cathedral of the Russian Orthodox Church in America,* 344 U.S. 94, 122, 97 L. Ed. 1120, 140 [*sic*], 73 St. Ct. 143 (Frankfurther [*sic*], J., concurring opinion).

The early history of the Serbian Orthodox churches in America and of the American-Canadian Diocese itself manifested a clear intention to retain independence and autonomy in its administrative affairs while at the same time becoming ecclesiastically and judicially an organic

part of the Serbian Orthodox Church. The constitution of the Diocese evidences and accomplishes this intent. Article 2 [*sic*] states that the Diocese is considered "ecclesistically-judicially as an organic part" of the Serbian Patriarchate. The article recites no reference to administrative control by the Patriarchate, and, in point, article 3 provides that the Diocese "enjoys full administrative freedom" and can "independently regulate and rule" the activities of the church within the "entire political territory of the United States and Canada.

The desire for administrative freedom is further indicated by the fact that initial provisions of the diocesan constitution, which the Holy Assembly would not accept as a condition for approval, provided that the Diocesan National Assembly would elect its own bishop and have the exclusive right to amend the constitution. The Diocese did not surrender its complete power in regard to this latter provision, for the Holy Assembly may only approve changes introduced and adopted by the Diocesan National Assembly. We conclude, as did the appellate court, that it is inconceivable that the Holy Assembly, which is without an express power to alter or amend the diocesan constitution, has an implied power to utterly revoke that constitution by decreeing that the Diocese ceases to exist.

The constitution of the Serbian Orthodox Church, adopted three years after the constitution of the American-Canadian Diocese was approved, is not contrary to this conclusion. Article 12 states that the church's main administrative division is the diocese in regard to both church *hierarchical* and *administrative* aspects. Article 14 states, "These are the Dioceses in the Serbian Orthodox Church," and then lists only those dioceses within Yugoslavia. The American-Canadian Diocese, prior to May 10, 1963, was

listed in article 15, which, significantly, covered those dioceses "under the jurisdiction of the Serbian Orthodox Church in *spiritual* and *hierarchical* aspect." These two articles clearly distinguish between those dioceses completely subordinate to the Serbian Orthodox Church in both hierarchical and administrative matters and those dioceses subordinate in only the spiritual and hierarchical aspects. By the placement of the American-Canadian Diocese in article 15, the Serbian Orthodox Church recognized, in its own constitution, its jurisdiction over the Diocese only in spiritual and hierarchical concerns. Article 16 states that decisions regarding the establishment, liquidation, or reorganization of the dioceses are decided upon by the Holy Assembly in agreement with the Patriarchal Council. Plaintiffs have pointed to no statement or interpretation of article 16 by the Holy Synod, Holy Assembly, or the Patriarch that a liquidation or reorganization of a diocese is other than an administrative act, nor have we been able to find any. Defendants maintain that the "reorganization" of the Diocese was administrative, and plaintiffs contend, in a rather oblique argument, that it was both hierarchical and administrative. Even accepting plaintiffs' contention, the constitution of the Serbian Orthodox Church does not grant the Holy Assembly the sole power to "reorganize" the American-Canadian Diocese, and in this regard it is consistent with the constitution of the Diocese. For the above-stated reasons, we find that the division of the American-Canadian Diocese into three new dioceses by the Holy Assembly was "in clear and palpable excess of its own jurisdiction," and as such, it is not binding on civil courts. *Schweiker* v. *Husser*, 146 Ill. 399, 415, 425.

The American-Canadian Diocese and the monastery corporation maintain that the relationship between the

Diocese and the Serbian Orthodox Church has been terminated by reason of the church's breach of the contract between them or by reason of the parties' mutual repudiation. Plaintiffs assert that no contract ever existed, that the Diocesan National Assembly which proclaimed the Diocese completely autonomous was constitutionally illegal, and that the Diocese's attempt to proclaim its complete autonomy was violative of the constitutions of both the American-Canadian Diocese and the Serbian Orthodox Church. Defendants do not contend that the constitution of the Serbian Orthodox Church provides any authority under which the Diocese could proclaim autonomy. Moreover, the constitution of the Diocese states that any amendments adopted by the Diocesan National Assembly must be approved by the Holy Assembly of Bishops.

In considering this issue, a determination must first be made as to what is the actual relationship between the American-Canadian Diocese and the Serbian Orthodox Church. Reviewing the history of the Diocese, as disclosed by the record and the constitutions of the respective parties, we find that the relationship is more than a mere contract or compact. Rather, it is a relationship of religious unanimity wherein people of common faith joined with a recognized higher church organization to further the practice of their faith. The constitutions of the parties are simply the expressions of the temporal laws governing this religious union and are only a minor aspect of it. Actions which are contrary to these temporal laws are not a repudiation or an abrogation of the primary and basic relationship of religious unity.

The attempt of the Diocese to declare its complete autonomy is similar to the attempt of the Holy Assembly

of Bishops to divide the Diocese. Both actions were contrary to their respective constitutions. Neither act, however, was a repudiation of the basic religious unanimity, thereby permitting the parties to abandon their union or to ignore the temporal laws governing their relationship.

Moreover, viewing this issue solely in regard to the respective constitutions, the parties recognize that neither provides for a unilateral withdrawal. As the action of the Holy Assembly in attempting to divide the Diocese was "in clear and palpable excess of its own jurisdiction," so also is the action of the Diocese in attempting to secede. Accordingly, the declaration of complete autonomy by the Diocese is not binding on civil courts. We do not infer, however, that the relationship existing between the American-Canadian Diocese and the Serbian Orthodox Church is the same type of relationship as exists between the Diocese and its respective church-school congregations.

Accordingly, the judgment of the circuit court of Lake County that Bishop Dionisije's deposition and defrockment were proper is reversed; the judgment that the division of the American-Canadian Diocese into three new dioceses was illegal and unenforceable is affirmed; and the judgment that the actions of the Diocesan National Assembly in November, 1963, amending the constitution of the Diocese are without force or effect is affirmed. The cause is remanded to the circuit court of Lake County for further proceedings not inconsistent with the views expressed herein.

Affirmed in part and reversed in part and remanded.

MR. JUSTICE SCHAEFER took no part in the consideration or decision of this case.

APPENDIX B

IN THE
CIRCUIT COURT OF LAKE COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA, a religious body, et al., Plaintiffs,	No. 63-1644	Consolidated No. 63-1644
vs.		
DIONISIJE MILIVOJEVICH, et al., Defendants.	No. 63-2312	

MEMORANDUM DECISION

PREAMBLE

This cause has a lengthy history which involves a bitter religious and legal controversy and an involved tangle of pleadings and exhibits and scholarly briefs, and an extremely lengthy bench trial with evidence presented before this Trial Judge. We intend to condense this Opinion as all evidence, law of the case and historical background are well known to the parties and counsel to the cause.

The parties named in the caption of this Decision for convenience will herein sometimes be referred to as: The Plaintiffs as "Mother Church" and the Defendants as "American Diocese." The former has its Holy See in Yugoslavia and the latter in or near Libertyville, Lake County, Illinois.

These cases were consolidated at the trial court level and were summarily disposed of by the late Judge Philip

Yager in favor of said Defendants. On appeal by the Mother Church as Appellants, a comprehensive review of the pleadings and supporting documents and the law applicable to the situation appears in the Learned Opinion and Supplemental Opinion written by Appellate Court (now Illinois Supreme Court) Justice Charles Davis, which appears in 72 Ill. App. 2d 444 (1966). In this (the Davis Opinion), the Yager trial court summary judgment orders were reversed.

We quote from the Davis Opinion: (Pages 464 & 465)

> "• • • be presented to the trial court on remandment in an orderly and complete hearing of these consolidated cases on their merits. If, upon proper pleadings, competent testimony and other valid evidence, the appellees can present a case which would warrant and justify the trial court—a civil court—in not accepting a pertinent ecclesiastical decision or decisions, we do not mean to be understood to preclude them from doing so. Our purpose in remanding the case is to afford all of the litigants a complete and full hearing on the merits pertaining to the many issues and questions involved. The factual background of this case is indeed significant, but it is not without dispute, as is evidenced by the numerous conflicting representations made to the court through extensive pleadings, depositions, affidavits, and briefs.
>
> "The legal conclusions reached in our opinion are based upon the facts as they appear to us as the case stands at this juncture. Should a full hearing develop factual matters of significance, different from those upon which this opinion is based, then our opinion would be limited accordingly."

The Appellate Court Decision quoted above has been our reason for the extensive evidence taken by us, chiefly to determine whether or not the decision of the Mother Church

to defrock Bishop Dionisije was "tainted with fraud, collusion, or arbitrariness" in which case, only, the ecclesiastical decision need not be accepted by this secular court. On page 457 of the Davis Opinion we find a reference to the cases of Watson and Gonzalez and the statement that:

> "If a civil right depends upon an ecclesiastical matter, the civil court must take the ecclesiastical decisions as it finds them. It is only where the decision of a church tribunal is tainted with fraud, collusion or arbitrariness that the decision need not be accepted by the secular court."

And on page 456 of the said Davis Opinion again is similar legal authority.

There are two existing corporations with which we are concerned. In 1935, a new religious society was incorporated under the laws of Illinois called "Serbian Eastern Orthodox Diocese for the United States of America and Canada." Its Constitution was substantially the same as that of the first corporation and it was likewise approved by the Serbian Orthodox Church of Yugoslavia. (Previously such society, incorporated in Illinois in 1927, had been allowed to lapse.) As is stated in the last paragraph on page 450 of the Davis Opinion:

> "• • • the Constitution of the Diocese. [the religious corporation] It states that the Diocese 'is considered ecclesiastically—judicially as an organic part of the Serbian Patriarchate in the Kingdom of Yugoslavia.' Article 2 provides that 'All statutes and rules which regulate the ecclesiastical—canonical authority and position of the Serbian Orthodox Church in the Kingdom of Yugoslavia are also compulsory' on the Diocese 'with the exception of specific cases which must be formulated with regard to local circumstances in accordance with ecclesiastical and judicial principles.'

"Article 3 of this [Diocesan] Constitution provides that the jurisdiction of this Diocese includes the entire political territory of the United States and Canada, which by its geographical location enjoys 'full administrative freedom' under which 'it can independently regulate and rule the activities of * * *'" (various activities described).

In 1945, said Religious Corporation under the leadership of Bishop Dionisije formed an Illinois Corporation under the general not-for-profit corporate laws to which the assets of the Religious Corporation would be transferred. The name of this Corporation was, and is, "Serbian Orthodox Monastery of Saint Sava." The reason for this move was the Bishop's fear that the Mother Church would fall under the domination of the Communist government in Yugoslavia. The Bylaws of the non-profit corporation formed in 1945 provide for it to be an autonomous Serbian Church institution; and further provide that it possesses its own property which cannot be disposed of, sold, mortgaged or otherwise conveyed by any Serbian Church authority, without the consent and approval of the Diocesan Council, headed by the Bishop and the Diocesan Church Conventions.

On May 10, 1963, the Holy Episcopal Synod of the Mother Church in Yugoslavia first suspended Bishop Dionisije, and then he was defrocked on March 15, 1964 by the Holy Episcopal Council consisting of the Patriarch, Metropolitan, and the Diocesan Bishops of Yugoslavia. In that intervening interval, on May 17, 1963, said Synod of the Mother Church had disbanded the American-Canadian Diocese and in place thereof established three new dioceses, including not only all of the same, but also an additional international territory; and on said date, three temporary

administrators were appointed for said respective new dioceses. Firmilian Ocokoljich on May 10, 1963, was first appointed as Administrator of the Diocese to replace the suspended Bishop Dionisije, then as temporary Administrator of one of the three new dioceses, and next on July 27, 1963, as Diocesan Bishop of one of the three newly created dioceses, and only in this sense, to replace Bishop Dionisije.

We believe we must decide these issues:

NUMBER ONE ISSUE: Was the decision to defrock Bishop Dionisije made by the Mother Church in Yugoslavia tainted with fraud, collusion or arbitrariness so that the decision need not be considered as binding upon this, a secular court?

NUMBER TWO ISSUE: Has any evidence, oral and documentary, of substance been heard by this Court which should induce us to rule contrary to that part of Justice Davis' Opinion (pages 451 & 458) that the Religious Corporation of the American Diocese has "full administrative freedom" and autonomy over its local Constitution, although changes and amendments to the Constitution can only be consummated "with the approval of the Holy Bishops' Assembly of the Serbian Patriarchate"?

NUMBER THREE ISSUE: Has any appropriate evidence been adduced in this Court which persuades us to change or comment upon the Justice Davis Opinion concerning the "trust" aspects of the "Saint Sava" owned property?

NUMBER FOUR ISSUE: Has this Court any viewpoint or comment regarding the opinion of Justice

Davis (pages 458, 459 & 462) declaring the action of the Mother Church in dividing the American Diocese into three new dioceses, with a changing of boundaries and bishops, to be beyond the power of the Serbian Patriarchate in Yugoslavia?

NUMBER FIVE ISSUE: The Davis Supplemental Opinion at page 463 finds that Firmilian was appointed in 1963 by the Holy Episcopal Synod as temporary administrator of the original American-Canadian Diocese in place of Bishop Dionisije (later defrocked); subject, however, to evidence on this trial on remand. What finding does this Court make?

CONTROLLING LEGAL AUTHORITIES

The opposing litigants cite considerable case law in their briefs before this Court, some from the United States Supreme Court and some involving our same litigants in other jurisdictions. However, after our examination of briefs and citations, there still remain two outstanding U.S. Supreme Court cases, viz., commonly known as the "Watson" and "Kedroff" cases which we believe are basic to the general tenor of this opinion as they were to Justice Davis' Opinion in 72 Ill. App. 2d 444. These two cases will now be discussed in relation to our instant cause as will two or three cases decided subsequent to the Davis Opinion in 1966, as well as related matters.

(A) Watson v. Jones, 13 Wall. 679 (1871); 20 L. Ed. 666 is recognized by all (Davis Opinion pages 456 & 457) as the U.S. Supreme Court basic and unchanged general rule relative to civil courts interfering in, or trying to settle, ecclesiastical disputes involving church-held property. At page 674 of Watson (Lawyer's Edition), the Supreme Court grouped such cases in the following manner:

> "The questions which have come before the Civil courts concerning the rights to property held by ecclesiastical bodies, may, so far as we have been able to examine them, be profitably classified under three general heads, which of course do not include cases governed by considerations applicable to a church established and supported by law as the religion of the State."

(Here, the court first describes conditions found in the deed or will involving the specific property; and second where the individual church which owns the property is congregational in type and strictly independent of any higher church authority. The third class is quoted from Watson as follows):

> "3. The third is where the religious congregation or ecclesiastical body holding the property is but a subordinate member of some general church organization in which there are superior ecclesiastical tribunals with a general and ultimate power of control more or less complete in some supreme judicatory over the whole membership of that general organization."

Again, in Watson (L. Ed. Page 676):

> "In this class of cases we think the rule of action which should govern the civil courts, founded in a broad and sound view of the relations of church and state under our system of laws, and supported by a preponderating weight of judicial authority is, that, whenever the questions of discipline or of faith, or ecclesiastical rule, custom or law have been decided by the highest of these church judicatories to which the matter has been carried, the legal tribunals must accept such decisions as final, and as binding on them, in their application to the case before them."

(B) Kedroff, et al. v. St. Nicholas Cathedral of Russian Orthodox Church in North America, 344 U.S. 94 (1952); 97 L. Ed. 120, affirmed and approved the general findings in Watson and also defined Class Number 3 therein (the hierarchical churches) as those organized as a body with other churches having similar faith and doctrine, with a common ruling convocation or ecclesiastical head. Kedroff held to be violative of the First Amendment to the U.S. Constitution, certain New York State Legislation taking considerable church power from the Holy See in Moscow and granting it to the American-based Orthodox Russian Diocese. Justice Davis on page 456 writes: "We do not believe it can seriously be contended that the American Diocese is not a part of such a Hierarchical structure." In this opinion, this Court concurs.

(C) There are other decisions of Courts of Appeal from various jurisdictions cited in the respective briefs for the parties here. We have given the consideration thought to be due to such citations and we believe only two are sufficiently relevant (especially "Blue Hull").

1. Presbyterian Church, etc., et al. v. Mary Elizabeth Blue Hull, etc., et al., 393 U.S. 440, (89 Sup. Ct. 601) (1969), involved two local churches which belonged to a Presbyterian structure much similar to our Serbian overall Hierarchical structure. Local churches felt that they had sufficient doctrinal and other differences to withdraw from their mother church and the "Blue Hull" case resulted. The trial court and the Georgia Supreme Court both found for the local churches. However, in said "Blue Hull" decision, the U.S. Supreme

Court reversed, citing Watson v. Jones, supra, stating (393 U.S. 604):

> "There, as here, civil courts were asked to resolve a property dispute between a national Presbyterian organization and local churches of that organization. There, as here, the disputes arose out of a controversy over church doctrine. There, as here, the Court was asked to decree the termination of an implied trust because of departures from doctrine by the national organization. The Watson Court refused pointing out that it was wholly inconsistent with the American concept of the relationship between church and state to permit civil courts to determine ecclesiastical questions."

The "Blue Hull" Court then, in substance, confirmed Watson. The exception so familiar to all by now giving civil courts limited jurisdiction in church matters where it is proven that fraud, collusion or arbitrariness has affected ecclesiastical decision, is affirmed in "Blue Hull" on page 447, but more directly on page 451.

2. The Maryland and Virginia Eldership, etc., et al. v. The Church of God at Sharpsburg, Inc., et al., 396 U.S. 367; 24 L. Ed. 2d 582 (1970), is a one-page per curiam opinion. It is informative solely from a Justice's "Separate Opinion" of about two pages which cites the Watson, Kedroff, and Blue Hull cases, all supra, all with approving comments, but adding little to the law in our Serbian case.

(D) The Statute of Illinois under which the American Diocese was incorporated in 1935 as a religious society has significance to us as the Davis Opinion

relates (pp. 456 & 457) of two methods to incorporate religious societies under the Religious Corporations Act, §§35-46, inclusive, thereof provide for independent organizations. (Ill. Rev. Stats. now 1971, Chap. 32, paragraphs 164 et seq.); and §§46(a)-(k) inclusive. The Diocese in this country was incorporated in 1935 under the provisions of Chap. 32, paragraphs 176-186, inclusive. This fact, together with the constitutional language, church history, and practice, clearly establishes the Hierarchical nature of the Serbian Orthodox Church. (See Davis Opinion, page 457).

DECISION

We now decide the issues as we view them by the same numbers which we have used to outline them previously herein.

NUMBER ONE ISSUE: In our opinion, no substantial evidence was produced by Defendants at the trial that fraud, collusion or arbitrariness existed in any of the actions or decisions preliminary to or during the final proceedings of the decision to defrock Bishop Dionisije made by the highest Hierarchical bodies of the Mother Church. These were valid ecclesiastical matters under the above findings and highest legal authorities. Bishop Dionisije chose not to appear in Belgrade for trial and he had been dissident from the Mother Church for many, many years, even though it may be from originally what he thought and may still think are patriotic reasons. Nevertheless, his attitude was one of defiance of the Holy See which was publicly made manifest and known to a great many of the faithful, he refused to attend meetings of

Bishops in Yugoslavia, even in recent years, and the Mother Church can hardly be blamed for proceeding with his trial in his absence.

Countless charges of personal misconduct were made by Plaintiffs against Bishop Dionisije and a great part of the trial was evidence pro and con by witnesses concerning those matters. This Court permitted this evidence (much of which now seems extraneous) wherein we believe that trial counsel had legal reason in connection with this "Issue Number One." However, we now consider that all this type of evidence was irrelevant to any of our issues stated herein and we make no finding as a Court as to the personal conduct of Bishop Dionisije while a Bishop nor concerning the charges in question.

NUMBER TWO ISSUE: No sufficient evidence was heard during our trial to differ with or to comment upon the Justice Davis Opinion at pages 451 and 458 confirming and holding that the Religious Corporation, "The Serbian Eastern Orthodox Diocese for the United States of America and Canada" has "full administrative freedom" and autonomy over its local Constitution, although changes and Amendments thereto can only be consummated "with the approval of the Holy Bishops' Assembly of the Serbian Patriarchate."

We comment that this does create a rather anomalous situation, with the American Diocese being led by a temporary Administrator and perhaps a bishop appointed by the Mother Church and it also having a "negative vote" on all future Constitution "changes and Amendments."

NUMBER THREE ISSUE: We are not persuaded by the evidence to change or comment significantly upon the opinion of Justice Davis concerning the "trust" aspect of the "Saint Sava" Corporation held property of the Diocese. We agree with his views and for brevity, we simply refer to his Opinion on this subject, beginning in the last paragraph on Page 454 and continuing to the middle of Page 456 of his Opinion.

NUMBER FOUR ISSUE: We concur fully with Justice Davis that it was improper and beyond the power of the Mother Church to take its action in dividing the whole American Diocese into three new Dioceses, changing its boundaries, and in appointing new bishops for said so-called new Dioceses. Again, for brevity, we refer to the Davis Opinion on these matters beginning in the first paragraph on Page 458 and continuing to the first paragraph on Page 460.

NUMBER FIVE ISSUE: We concur with the "Supplemental Opinion" of Justice Davis (second paragraph, Page 464), that Firmilian was validly appointed by the Holy Episcopal Synod as temporary Administrator of the whole American Diocese in place of the defrocked Bishop Dionisije, and we recall no evidence to the contrary during our trial. However, a peculiar situation exists which we do not believe Justice Davis refers to in his Opinion. Firmilian was never designated Bishop of all of the original and still existing "American-Canadian Diocese" by the Holy See in Belgrade and therefore, only an Administrator, not a Bishop, is in charge of the latter Diocese. There is a vacancy in said office of Bishop, in the opinion of

this Court, and the Mother Church should fill that vacancy at once. We realize that the Mother Church (represented by Plaintiffs trial counsel) stoutly contends in its Briefs here that Firmilian, as the Bishop of one of the three newly-created Divisional Dioceses, has jurisdiction over all Lake County matters and properties; while the American Diocese (represented by Defendants trial counsel) just as stoutly contends in its Briefs here that virtually all activity that has occurred, Justice Davis' entire Opinion (and no doubt this Memorandum), are all in error. It is of interest to note, as Justice Davis does at Page 451 of his Opinion, that the Administrator of the Diocese and the Diocesan Bishop, when appointed, possess considerable power and authority.

We suggest that suitable orders or decrees be drafted and presented to the Circuit Court, and perhaps counsel for Plaintiffs should take the initiative in that regard. We regret exceedingly that personal misfortune, injury and ill health of the undersigned have caused considerable delay in the final studies of law and evidence in this case and thus have so long delayed the issuance of this Memorandum.

DATED: December 28, 1972.

L. Eric Carey
Judge

IN THE
CIRCUIT COURT OF LAKE COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA, a religious body, et al., Plaintiffs,	No. 63-1644	Consolidated No. 63-1644
vs.		
DIONISIJE MILIVOJEVICH, et al., Defendants.	No. 63-2312	

FINAL DECREE

This consolidated cause having come on to be heard for the entry of a Final Decree, the Court having filed its Memorandum Decision on December 28, 1972, and having heard the statements of counsel for the parties made in open court and being otherwise fully advised in the premises, finds and concludes as follows:

1. The plaintiffs are the Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious body duly organized and existing since 1921; Bishop Firmilian Ocokoljich, a Serbian cleric (hereinafter referred to as "Bishop Firmilian"); Bishop Sava Vukovich, a Serbian cleric; Bishop Gregory Udicki, a Serbian cleric; and certain representative individuals, both laymen (Emil Droback, Sam Milanovich and Donald Kral) and Clerics (Very Reverend Dusan Popovich, Very Reverend Dusan Klipa and Very Reverend Vladimir Mrvichin), who sue on their own behalf and on behalf of those persons,

lay and clerical, who recognize and adhere to ecclesiastical and hierarchical allegiance to the Serbian Orthodox Church whose Patriarchal See is located in Belgrade, Yugoslavia which church is one of fourteen recognized orthodox ecclesiastical and hierarchical churches in the world and is hereinafter referred to as the "Serbian Church."

2. The defendants are Dionisije Milivojevich (hereinafter referred to as "Dionisije"), a former Bishop of the Serbian Church, a former diocesan bishop and officer and agent of the Serbian Eastern Orthodox Diocese for the United States of America and Canada; the Serbian Eastern Orthodox Diocese of the United States of America and Canada, an Illinois religious corporation organized and existing since 1935 under the Illinois Religious Corporations Act (hereinafter referred to as the "Illinois religious corporation"); and, the Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation organized and existing since 1945 under the Illinois Not-for-Profit Corporations Act (hereinafter referred to as the "Illinois not-for-profit corporation").

3. The Serbian Church is an ancient, world-wide, hierarchically organized church. Under the Serbian Church's hierarchical organization, the geographical territories throughout the world over which it assumes ecclesiastical authority and administration are designated, fixed and determined by the Church's Holy Assembly of Bishops and thereafter designated and set forth in its Constitution and each is designated a diocese of the Serbian Church; subject, however, to the provisions in the Constitution of the Serbian Church and the provisions in the Constitution of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, reserving to

the latter said Diocese full administrative freedom in all administrative aspects.

4. The sole power and authority to elect, ordain and assign a Diocesan Bishop rests in the Serbian Church's Holy Assembly of Bishops. Each Diocesan Bishop is, by virtue of his office as Diocesan Bishop, a member of the Holy Assembly of Bishops (hereinafter referred to as the "Holy Assembly"), the Serbian Church's highest hierarchical judicatory. At the head of the Holy Assembly is one of its number who is designated as Patriarch (the first among equals), who is elected to his office as Patriarch by the Holy Assembly and serves as its President. The executive branch of the Holy Assembly is the Holy Synod. It consists of the Patriarch and four other Diocesan Bishops selected by the Holy Assembly.

5. Neither the Illinois religious corporation nor its members have, nor have they or any of them ever had, the authority to elect, ordain, assign, reject or accept bishops. Any cleric purportedly elected to the office and rank of Bishop of the Serbian Church by any persons, groups or corporations or other entities other than the Holy Assembly were not and are not validly elected to the office and rank of Bishop, their election was and is in each instance null and void. No one of them is or has ever been a Bishop of the Serbian Church.

6. The Serbian Eastern Orthodox Diocese for the United States of America and Canada was created by the Holy Assembly in the early 1920's. Initially, Archimandrite Mardary was assigned to administer the affairs of the newly created diocese. On November 22, 1925, Mardary was elected by the Holy Assembly as Diocesan Bishop for the Diocese of the United States of America and Canada.

Prior to his death Bishop Mardary caused the Illinois religious corporation to be formed. It was organized on May 10, 1935 pursuant to the Illinois Religious Corporations Act, ch. 32, pars. 46(a)-(k). It has the powers and obligations as are set forth and defined in the Diocesan Constitution, the Constitution of the Serbian Church and the Illinois Religious Corporations Act, as amended (Ill. Rev. Stats. 1971, pars. 176-187).

7. All assets, real, personal, tangible and intangible transferred by the Illinois religious corporation (and all those acting under and pursuant to its authority), were so transferred to the aforedescribed Illinois not-for-profit corporation, Shadeland Corporation and Jackson Corporation subject to, and impressed with, the trust imposed upon those assets. Those assets and all accretions and additions thereto by increase in value, income, earnings, or otherwise have at all times pertinent hereto been held (and are now, and must continue to be held) for the use and benefit of those persons in the United States and Canada faithful to the Serbian Church and to the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

8. Dionisije was elected by the Holy Assembly in Belgrade, Yugoslavia, as Diocesan Bishop for the Serbian Eastern Orthodox Diocese for the United States of America and Canada in December, 1939. By virtue thereof he became and until suspended on May 10, 1963, served as the chief executive officer of the Illinois religious corporation, the Illinois not-for-profit corporation, the Priests' Pension Fund, the Shadeland Corporation, the Jackson Corporation, and the Diocesan Council. The Illinois religious corporation, the Illinois not-for-profit corporation, the Shadeland Corporation, the Jackson Corporation, and the

Priests' Pension Fund, are secular arms of the Serbian Eastern Orthodox Diocese for the United States of America and Canada. The Diocesan Council is the governing body of the Diocese for the United States of America and Canada.

9. On May 10, 1963, the Holy Synod suspended Dionisije. On July 27, 1963, the Holy Assembly removed and deposed Dionisije as Diocesan Bishop and on March 5, 1964, it defrocked him. These actions were valid, free and voluntary, binding ecclesiastical actions of the Holy Synod and Holy Assembly of the Serbian Church, taken wholly within their ecclesiastical power and authority. They were in no respect tainted with fraud, collusion, duress, or arbitrariness. Accordingly, they must be (and should have been) honored and accepted by defendants and each of them, and, as well, given full force and effect by this and other secular courts of, and in, the United States and Canada, with regard to their effect, ecclesiastically and otherwise, on the possession, control and administration of church property.

10. Dionisije, having been validly suspended on May 10, 1963, and deposed and removed from his position as Diocesan Bishop for the Diocese of the United States of America and Canada on July 27, 1963, and defrocked as a Bishop of the Serbian Church on March 5, 1964, was without power or authority from and after May 10, 1963 to act as, or to exercise any of the rights, privileges, duties, powers or authorities, dejure or defacto, of Bishop of the Diocese. From and after July 27, 1963, the office of Bishop of the Diocese for the United States of America and Canada became and remained and still is vacant, as did and are the offices of chief executive officer of the Illinois religious corporation, the Illinois not-for-profit corporation, the

Priests' Pension Fund, the Jackson Corporation, the Shadeland Corporation and the Chairmanship of the Diocesan Council, as well as other offices and positions of the Diocese and of each of the above-listed corporations, held by the Bishop of the Diocese by virtue of his office as Bishop.

11. The office of Bishop for the Diocese of the United States of America and Canada being vacant, the Holy Assembly had exclusive authority to fill that vacancy. Upon the entry of the order of suspension and pending the final disposition of the suspension of Dionisije and his ultimate reassignment to his office or his removal therefrom by the Holy Assembly, the Holy Synod had exclusive authority to appoint an Administrator of that Diocese of the United States of America and Canada.

12. The Holy Synod, following Dionisije's suspension, validly appointed Bishop Firmilian as Administrator for the Diocese of the United States of America and Canada on May 10, 1963. By virtue of that appointment, Bishop Firmilian has since then been, and is, pending the election of a Diocesan Bishop to succeed him, the chief executive officer of the Illinois religious corporation, the Illinois not-for-profit corporation, the Priests' Pension Fund, and the Diocesan Council, responsible for the administration for the benefit of, and as trustee for those who are members of and who are faithful and who give allegiance to the Serbian Church and the Serbian Eastern Orthodox Diocese for the United States of America and Canada, of all of the assets tangible and intangible, real and personal, owned, held, controlled and operated by each of the aforedescribed entities. As Administrator, he has, and has had since his appointment on May 10, 1963, the powers, authorities, rights, duties, privileges, emoluments, immunities,

offices and positions of the Administrator of the Diocese of the United States of America and Canada with the powers and subject to the limitations contained in the Constitutions of the Serbian Church and of the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

13. Dionisije and those acting under his control and authority, have since May 10, 1963, illegally and improperly refused to recognize:

(i) the decisions of the Holy Assembly suspending, removing and defrocking Dionisije, and

(ii) the authority of Bishop Firmilian as Administrator for the Serbian Eastern Orthodox Diocese for the United States of America and Canada and as such, the holder of all offices and positions, rights, duties, powers, authorities, emoluments, immunities of Administrator, including, among others, the chief executive officership of the Illinois religious corporation, the Illinois not-for-profit corporation, the Priests' Pension Fund, and the Diocesan Council.

14. Bishop Firmilian's authority as Administrator of the Diocese for the United States of America and Canada is as set forth in the Constitutions of the Serbian Church and the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

15. The Illinois religious corporation has full administrative freedom with relation to possession, use and control of its real and personal property, tangible and intangible, provided, however,

(i) that it may not change or amend the Diocesan Constitution without the approval of the Holy Assembly,

(ii) that all said real and personal property, tangible and intangible, has been during all times pertinent hereto, and still is and will remain, property held in trust to be administered for the benefit of those faithful in the United States and Canada who are faithful to the Serbian Church, and the Serbian Eastern Orthodox Diocese for the United States of America and Canada; and

(iii) the Illinois religious, Shadeland and Jackson Corporations and the Priests' Pension Fund may not employ any of their property contrary to the trust imposed thereon.

16. The changes and amendment to the Constitution of the Serbian Eastern Orthodox Diocese for the United States of America and Canada purportedly enacted subsequent to May 10, 1963, not having been approved by the Holy Assembly are null and void and without any force or effect, defacto or dejure.

17. By virtue of the authority conferred upon it by the Constitution of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, the Diocesan Council has apparently managed all the temporal affairs of the Serbian Eastern Orthodox Diocese from May 10, 1963 to the present and there has been no evidence presented to this Court of any breach of the trust imposed upon the assets, or wrongdoing, with the assets of the Illinois religious corporation or Illinois not-for-profit corporation since May 10, 1963. The Court further finds that the financial and administrative matters conducted by the Sabors since May 10, 1963 have apparently been in accordance with the Constitution of the Serbian Eastern Orthodox Diocese except to the extent that the Sabors purported to amend the Diocesan Constitution without the approval of the Holy Assembly of Bishops.

18. Absent the calling and holding of a Sabor pursuant to the Constitution of the Serbian Eastern Orthodox Diocese for the United States of America and Canada and appropriate actions of the Sabor, it was improper for the Holy Assembly to initiate or effect a division or reorganization of the entire Diocese for the United States of America and Canada and of the Illinois religious corporation into three new dioceses and, therefore the action of the Holy Assembly purporting to reorganize and divide the Serbian Eastern Orthodox Diocese into three new dioceses and to appoint a Diocesan Bishop of each of the new dioceses is invalid, null and void and of no force or effect, dejure or defacto.

19. Bishop Firmilian in his capacity as the Administrator of the Serbian Eastern Orthodox Diocese for the United States of America and Canada is authorized to do those acts permitted under the Serbian Church Constitution and the Constitution of the Serbian Eastern Orthodox Diocese for the United States of America and Canada and may undertake no action inconsistent with this decree or those Constitutions.

20. All Serbian Church congregations in the United States of America and Canada who profess loyalty to the Serbian Church with its Patriarchal See located in Belgrade, Yugoslavia, and the Serbian Eastern Orthodox Diocese of the United States of America and Canada with its Diocesan See located in Libertyville, Illinois, are members of the Serbian Eastern Orthodox Diocese for the United States of America and Canada regardless of what position said churches may have taken with regard to the Serbian Church and the aforesaid Diocese from May 10, 1963 until the date of the entry of this Decree.

In view of the within and foregoing findings and conclusions:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The decisions and actions of the Holy Assembly and the Holy Synod relating to the suspension, removal and defrockment of Dionisije were in no way tainted with fraud, collusion, duress, undue influence or arbitrariness. They were in all instances voluntary and legally authorized actions and they were valid, authorized and proper ecclesiastical decisions of the highest judicatories of the Serbian Church, and are in all respects binding upon this Court.

2. Bishop Firmilian was validly appointed by the Holy Synod to be and has been since his appointment on May 10, 1963 the Administrator of the Diocese for the United States of America and Canada in replacement of Dionsije. Until replaced by a Diocesan Bishop elected and assigned by the Holy Assembly, Bishop Firmilian possesses the authority, rights, duties, emoluments, privileges, immunities, offices and positions which are more particularly set forth in the Constitutions of both the Serbian Church and of the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

3. The office of Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada is now and has been since July 27, 1963 vacant. The Holy Assembly has the exclusive authority to fill that vacancy.

4. Defendants, and each of them, and all persons, firms, corporations and entities who have acted or who are acting under, with, or pursuant to their order or direction or in concert with them, are ordered to recognize Bishop Firmilian as the Administrator of the Serbian Eastern Orthodox Diocese for the United States of America and

Canada and his authority as is set forth in the Constitutions of the Serbian Church and the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

5. The Illinois religious corporation, has full administrative freedom within the entire political territory of the United States of America and Canada and it may independently regulate and rule the activities of its churches, schools and other diocesan institutions subject to the trusts hereinbefore set forth, and the Serbian Church with its See in Belgrade, Yugoslavia, other than having the power to approve or disapprove amendments to the Constitution of the Serbian Eastern Orthodox Diocese of the United States of America and Canada has no right or authority to interfere with the management of the property of the Serbian Eastern Orthodox Diocese.

6. Any purported changes or amendment to the Constitution of the Serbian Eastern Orthodox Diocese for the United States of America and Canada purportedly enacted subsequent to May 10, 1963 are null and void and do not now nor have they ever had any defacto or dejure force or effect.

7. The May 10, 1963 decision of the Holy Assembly of Bishops dividing the Serbian Eastern Orthodox Diocese for the United States of America and Canada into three new dioceses, was illegal, invalid and unenforceable because it is in violation of the Constitutions of the Serbian Church and the Serbian Eastern Orthodox Diocese and all acts of the bishops and officers of the three new dioceses as alleged successors to the American-Canadian Diocese are null and void.

8. Dionisije has not been a Bishop of the Serbian Church since March 5, 1964, nor a Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada since July 27, 1963, nor, since May 10, 1963, the chief executive officer of the Illinois religious corporation, the Illinois not-for-profit corporation, the Shadeland Corporation, the Jackson Corporation, the Priests' Pension Fund, or the Diocesan Council, nor has he had authority since May 10, 1963 to exercise any ecclesiastical or administrative authority or power whatever with respect to the property or affairs of said corporations, Council and Fund or any committee or group associated with them.

9. The Court retains jurisdiction of this cause for the purpose of entering any further orders or decrees necessary, appropriate or desirable in order to execute, enforce and carry out this Decree.

10. The court costs in this consolidated cause shall be calculated by the Clerk of Court, assessed and paid one-half by plaintiffs as a group and one-half by defendants as a group.

11. Nothing shall delay the enforcement or appeal of this decree.

ENTER:

L. Eric Carey

Dated: April 30, 1973.

APPENDIX C

Serbian Eastern Orthodox Diocese for United States of America and Canada, etc., et al., Plaintiffs-Appellees, v. Firmilian Ocokoljich, et al., Defendants-Appellants.

The Right Reverend Bishop Firmilian Ocokoljich, et al., Plaintiffs-Appellants, v. Dionisije Milivojevich, Defendant-Appellee.

Gen. No. 65-40.
Second District.
April 7, 1966.
Supplemental opinion September 7, 1966.
Rehearing denied September 7, 1966.

Mr. Justice Davis delivered the opinion of the court.

This appeal involves two actions—consolidated in the trial court—which narrate a dispute over the control of the Serbian Eastern Orthodox Diocese for United States and Canada, and the property and assets of this Diocese, and of a related institution. The trial court determined this matter by granting a summary judgment in one suit, and granting a motion to dismiss in the other. The judgment and order were based upon extensive pleadings, depositions and affidavits. Because of the summary presentation and the conflicting representations of the parties, the factual background necessary to an understanding of the case, is not in all respects certain.

We will relate the church and corporate histories, and the church and corporate laws of the institutions involved, as best we comprehend them under the posture of this appeal, in that such background is essential to an understanding of the issues involved in these pleadings.

In California and Pennsylvania in the 1890's, Americans of Serbian descent formed completely autonomous religious associations. In 1917, these Serbian church societies became associated with the Russian Orthodox Church which sent Father Mardarije Uskokovich to this country to organize an "independent" Serbian Diocese in America.

In the 1920's, the Diocese in this country beame affiliated with the Serbian Orthodox Church of Yugoslavia. This Diocese was incorporated in 1927 under the laws of the State of Illinois, as a religious society, under the name of "Serbian Orthodox Diocese Council for United States and Canada." It duly adopted a Constitution, which was aproved by the Serbian Orthodox Church of Yugoslavia.

This charter was permitted to lapse, and in 1935, a new religious society was again incorporated under the laws of the State of Illinois, and was called "Serbian Eastern Orthodox Diocese for United States of America and Canada." Its Constitution was substantially the same as that of the first corporation and it was likewise approved by the Serbian Orthodox Church of Yugoslavia.

The Holy Bishops Assembly of the Serbian Orthodox Church, Yugoslavia, elected Dionisije Milivojevich as Bishop in 1938, and the following year appointed him as Bishop of the Diocese in this country. When King Peter II of the Kingdom of Yugoslavia was deposed by the Communists in 1944, Bishop Dionisije became concerned that efforts might be made by the Communist government to obtain control of the property of the Diocese in this country. Consequently, this religious corporation, acting through its Diocesan Council, which is hereafter more fully defined, adopted a resolution calling for the incorporation—under the general not-for-profit corporate laws

of the State of Illinois—of a separate corporation, to which the assets of the religious corporation would be transferred and in which the title to the various assets would be held. Such a corporation was formed in the year 1945 under the name "Serbian Orthodox Monastery of Saint Sava."

Before completing this chronology, we will briefly relate the relevant portions of the Constitutions and By-laws of the Serbian Orthodox Church; of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, the religious corporation; and of the Serbian Orthodox Monastery of Saint Sava, the not-for-profit corporation.

The Constitution of the Serbian Orthodox Church (with its headquarters in Belgrade, Yugoslavia) sets forth that the Serbian Orthodox Church is autocephalous, and governs and regulates independently, all of its religious affairs; and that it has the rank of a Patriarchate and maintains dogmatic and canonical unity with all other Orthodox Churches. It provides that the Church is episcopal with the main administrative divisions "composed of dioceses, both in regard to church hierarchical and church administrative aspect."

Article 10 provides that there are the following church hierarchical and administrative authorities, bodies and organs:

> "1. Patriarch, Holy Bishop's Council and Holy Synod, High Ecclesiastical Court, Patriarchal Council and Patriarchal Board;
>
> "2. Diocesan Bishop, diocesan ecclesiastical court, diocesan council and diocesan executive board; . . . ."

Additional authorities at a level below the dioceses are then set forth which are not pertinent to this decision.

It is provided in Article 12:

> "The Serbian Orthodox Church is episcopal. Its main administrative division is composed of dioceses, both in regard to *church hierarchical and church administrative aspect.*" (Emphasis ours.)

Article 13 provides in part:

> "At the head of each diocese there is the diocesan bishop as its direct ruler. He is, according to the church canonical regulations, chief representative and guiding leader of all church spiritual life and church order in the diocese and he rules the diocese assisted by his clergy and laymen."

Article 14 reads: "These are the Dioceses in the Serbian Orthodox Church. . . ." It then lists a number of dioceses, all located within Yugoslavia. Article 15 provides that in addition to the dioceses previously named, there are additional dioceses outside of Yugoslavia "under the jurisdiction of the Serbian Orthodox Church *in spiritual and hierarchical aspect.*" (Emphasis ours.) Among those listed is the Serbian Orthodox Church in the United States of America and Canada. Article 16 provides that "Decisions of establishing, naming, liquidating, reorganizing, and the seat of dioceses . . . is decided by the Holy Council of Bishops, in agreement with the Patriarchal Council." For the reasons hereinafter stated, we believe that Article 16 applies only to those dioceses of the Serbian Orthodox Church which are under its jurisdiction in both church hierarchical and church administrative aspects.

Next, in the body of private laws governing the institutions before the court, is the Constitution of the Diocese. It states that the Diocese "is considered ecclesiastically

—judicially as an organic part of the Serbian Patriarchate in the Kingdom of Yugoslavia." Article 2 provides that "All statutes and rules which regulate the ecclesiastical—canonical authority and position of the Serbian Orthodox Church in the Kingdom of Yugoslavia are also compulsory" on the Diocese "with the exception of specific cases which must be formulated with regard to local circumstances in accordance with ecclesiastical and judicial principles."

Article 3 of this Constitution provides that the jurisdiction of this Diocese includes the entire political territory of the United States and Canada, which by its geographical location enjoys "full administrative freedom" under which "it can independently regulate and rule the activities of its church, schools and other diocesan institutions and all funds and beneficiaries, through its organs, but in accordance with the laws of this constitution and in agreement with the laws of the United States of America and Canada." The highest legislative and administrative authority of the Diocese is the Diocesan National Assembly; its executive and administrative organ is the Diocesan Council. The Diocesan Assembly is opened by the Diocesan Bishop. One of its functions is to make changes and amendments to the Constitution "with the approval of the Holy Bishop's (sic) Assembly of the Serbian Patriarchate."

Article 9 provides that the Bishop of the diocese shall be appointed by the Holy Assembly of Bishops of the Serbian Patriarchate. Article 13 specifies that when the seat of the Diocese Bishop is vacated, the administration of the Diocese, in spiritual and administrative matters, shall be upheld by the Diocesan Ecclesiastical Court and Diocesan Council until an administrator is appointed

"by the Serbian Patriarch with the Holy Pontifical Synod." Article 14 provides that the Diocesan Bishop is the supreme head of the St. Sava Monastery in Libertyville and that he appoints the abbot of the monastery and "conducts the canonical supervision and the higher executive authority over the monastery."

Article 149 provides that the property owned by the Diocese is "to serve exclusively for the purpose designated by the statutes of this Constitution and cannot be used for any other purpose." Article 155 provides that the Diocesan Fund consists of "all funds and assets which the Serbian people of the entire Diocese, individually or collectively through their church-school congregations and other various societies and organizations should establish, increase and dedicate to the mutual necessities of its church and school for the religious and educational aims of the entire Diocese." It further provides that the Diocesan Fund is to be supervised by the Diocesan Council. Article 156 provides that all real estate and personal property of the St. Sava Monastery in Libertyville is supervised by the monastery's administration "under the direct control of the Diocesan Bishop."

The Bylaws of the Serbian Orthodox Monastery of Saint Sava—the not-for-proft corporation formed in 1945—provide that it is an autonomous Serbian Church institution; and further provide that the corporation "possesses its own property which cannot be disposed of, sold, mortgaged or otherwise conveyed by any Serbian Church authority, without the consent and approval of the Diocesan Council, headed by the Bishop and the Dioceson Church conventions."

Article V provides that the Diocesan Bishop, "received as such by the Diocesan Council, by the Diocesan Church court and by the Diocesan Convention, is the supreme head of the Monastery and is the general overseer according to the Holy Canons of the Church. (By-Law 156 of the Diocese.)" Article VI of the Bylaws provides that the "president of the Board of Directors shall be the canonical Bishop of the Diocese, received as such by the Diocesan Council, by the Diocesan Church Court and by the Diocesan Convention."

With the above Constitutions and corporate histories in mind, we considered the following chronology of events: On May 10, 1963, the Holy Episcopal Synod of the Serbian Orthodox Church of Yugoslavia suspended Bishop Dionisije, and at the same time appointed Firmilian Ocokoljich as administrator of the Diocese; on May 17, 1963, its Holy Episcopal Council disbanded the American-Canadian Diocese and in its place established three new Dioceses, which extended beyond the borders of the United States and Canada and included South Africa and South America; and on said latter date, the Holy Episcopal Synod appointed Firmilian Ocokoljich, Gregorije Udicki and Stefan Lastavica as temporary administrators of the respective Dioceses. The Holy Bishops' Council, on July 27, 1963, discharged Bishop Dionisije as Diocesan Bishop and elected Bishop Firmilian as Diocesan Bishop in his place. It is significant that Bishop Firmilian was not elected as Bishop of the Serbian Orthodox Diocese Council for United States and Canada, but rather was elected as Bishop of one of the three newly created Dioceses. The other two temporary administrators were likewise each respectively elected as a Bishop of one of the other two newly created Dioceses.

The Diocesan National Assembly adopted a resolution declaring the division of the Diocese into three Dioceses, to be unlawful and unconstitutional, and refused to recognize the suspension of Bishop Dionisije or the election of the other three Bishops. The Holy Bishops' Synod of the Serbian Orthodox Church responded by declaring the Diocesan National Assembly unlawful. In reply to this, the Diocesan National Assembly, at an adjourned meeting held in November, 1963, passed amendments to the Diocese Constitution, declaring the autonomy of the Diocese and its freedom from all control of the Patriarchate in Belgrade. These amendments were not submitted to the Holy Bishops' Assembly for approval. On March 15, 1964, the Holy Episcopal Council, comprised of the Patriarch, Metropolitan and Diocesan Bishops of Yugoslavia defrocked Bishop Dionisije.

The appellees, referred to herein as the "Dionisije faction," brought the first suit in the names of the religious and not-for-profit corporations against the three Bishops of the new Dioceses, appellants, referred to herein as the "three Bishops faction," praying that none of the defendants be permitted to interfere with the administration of the properties of the plaintiff corporations. The "three Bishops faction" brought the second suit praying that the court find that Bishop Dionisije had been removed as Bishop; that the three Bishops be found to be lawfully appointed and be permitted the use of all the Diocesan properties; that only those members of the Church, who recognize the three Bishops, be acknowledged as members of the Serbian Orthodox Church for the Diocese of the United States and Canada; that the two corporations be found to hold their assets in trust for members of the Serbian Orthodox Church residing with-

in the Dioceses, and for other similar relief. As indicated, the trial court consolidated these actions, considered the pleadings, depositions and affidavits, and granted the "Dionisije faction" summary judgment on their complaint and granted their motion to dismiss the complaint of the "three Bishops faction."

The appellants contend that the issue before this court is simply whether they or the appellees, are entitled to exercise the religious authority of the Serbian Orthodox Church in this country. Appellants assert that only ecclesiastical matters are involved, and the appellees urge that only the property rights of Illinois corporations are embraced in this litigation.

We believe that both contentions are correct, in part. While both factions claim the right to control the properties and assets held by the Illinois corporations, neither the religious nor the not-for-profit corporation may claim title to or use of the assets free of trust or use for the benefit of the members of the Diocese. The determination of the disputed right to control such properties and assets cannot be made solely by resolving the question of title or the exercise of corporate authority under the Illinois corporate laws.

Article 155 of the Constitution of the Diocese imposes a trust upon the use of the Diocesan Fund and Article 149 further limits the use of the property "to serve exclusively for the purpose designated by the statutes of this Constitution and cannot be used for any other purpose." Section 46f of the Religious Corporations Act (Ill Rev Stats 1963, c 32, par 181) further imposes such a trust, which arises by operation of law in the absence of a declaration of trust or use in the gift, devise or grant in the instrument giving the property to the Church.

By the same token, the resolution of the Diocesan Council calling for the creation of the not-for-profit corporation to which the assets of the Diocese were to be transferred, can only have validity if this trust is likewise to follow the assets into the hands of this corporation and govern the administration of such assets. The creation of the Serbian Orthodox Monastery of Saint Sava, pursuant to the resolution of the Diocesan Council, is consistent with the degree of autonomy and administrative freedom reserved by the Diocese unto itself in Article 3 of the Constitution which provides that "it can independently regulate and rule the activities of its church, schools and other diocesan institutions and all funds and beneficences, through its organs." The by-law of the not-for-profit corporation providing that its property "cannot be disposed of, sold, mortgaged or otherwise conveyed by any Serbian Church authority without the consent of the Diocesan Council, headed by the Bishop and the Diocesan Church conventions" is not inconsistent with either the trust imposed or the Constitutional requirements of the Diocese.

It is within the framework of these organizational laws that this dispute must be resolved. The protection of the law extends to religious associations the same as to other voluntary associations of benevolent or charitable purposes. The rights of property or other civil rights of such associations are equally under the protection of law, and the actions of their members, subject to its restraints. Ginossi v. Samatos, 3 Ill App2d 514, 520, 123 NE2d 104 (1st Dist 1954).

In Watson v. Jones, 13 Wall 679 (1871), 20 L Ed 666, the United States Supreme Court set forth the three categories of cases which have come before the courts

pertaining to the rights of property held by ecclesiastical bodies, namely: (1) When the property, by the express terms of the instrument under which it is held, must be devoted to some specific form of religious doctrine or belief; (2) When the property is held by a religious congregation which, by the nature of its organization, is strictly independent of other ecclesiastical associations, and so far as church government is concerned, owes no fealty or obligation to any higher authority; and (3) Where the ecclesiastical body holding the property is but a subordinate member of some general church organization in which there are superior ecclesiastical tribunals with a general and ultimate power of control, more or less complete, in some supreme judicatory over the whole membership of the general organization.

The Supreme Court in Kedroff v. St. Nicholas Cathedral of the Russian Orthodox Church in North America, 344 US 94 (1952) at page 110, 97 L Ed 120, 133, 134, also defined the third group—the hierarchical churches—as those organized as a body with other churches having similar faith and doctrine, with a common ruling convocation or ecclesiastical head. We do not believe it can seriously be contended that the American Diocese is not a part of such a hierarchical structure. The constitutions referred to above abound with references to the hierarchical framework, with the Serbian Orthodox Church as the General Church. The Church history indicates this is so, and the manner of incorporating the Diocese in this country further evidences this fact.

There are two methods of incorporating religious societies under the Illinois Religious Corporations Act: sections 35-46 inclusive of the Act provide for the incorporation of independent church organizations (Ill Rev Stats

1963, c 32, pars 164-175, incl.); and sections 46(a)-(k) inclusive, provide for the incorporation of any church organization which is "under the patronage, control, direction or supervision of any ecclesiastical body, diocesan or like ecclesiastical officer. . . ." (Ill Rev Stats 1963, c 32, pars 176-186, incl.) The Diocese in this country was incorporated in 1935 under the latter provisions. This fact, together with the constitutional language, church history and practice, clearly establishes the hierarchical nature of the Serbian Orthodox Church. Ginossi v. Samatos, supra, at 525.

In disputes involving churches, hierarchical in nature, the secular courts must accept the decisions of the ecclesiastical judicatories within the structure, as to questions of discipline, faith or ecclesiastical rule, custom or law. If a civil right depends upon an ecclesiastical matter, the civil court must take the ecclesiastical decisions as it finds them. Watson v. Jones, supra; Ferraria, et al. v. Vasconcellos, et al., 31 Ill 25, 46 (1863). It is only where the decision of a church tribunal is tainted with fraud, collusion or arbitrariness that the decision need not be accepted by the secular court. Gonzalez v. Roman Catholic Archbishop of Manila, 280 US 1, 16, 17 (1929), 74 L Ed 131, 137.

The appointment and removal of a Bishop is clearly a canonical act. Kedroff v. St. Nicholas Cathedral of the Russian Orthodox Church of North America, supra; Gonzalez v. Roman Catholic Archbishop of Manila, supra. We may not alter what was done by the ecclesiastical governing authorities in this respect. It is clear that the Diocese recognized the right of the Serbian Patriarchate in this regard by providing in Article 9 of its Constitution that its Bishop shall be appointed by the Holy As-

sembly of Bishops and by recognizing in Article 2, the ecclesiastical-canonical authority of the Serbian Orthodox Church in the Kingdom of Yugoslavia. We must in this regard accept the ecclesiastical determination that Dionisije is not the Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

We do not accept that it must necessarily follow, however, that the action of the Serbian Orthodox Church in dividing this Diocese into three new Dioceses, and changing its boundaries, and in appointing Bishops for the three supposedly new Dioceses, is proper. We find that there was manifested in the Constitution of the Diocese a very evident intent to retain autonomy and independence in the administration of its affairs while accepting the ecclesiastical-canonical authority and position of the Serbian Orthodox Church of Yugoslavia. Thus, Article 2 provides that the Diocese is considered ecclesiastically-judicially as an organic part of the Serbian Patriarchate. It does not state that the Diocese is considered as a part of the Patriarchate administratively. Article 3 provides that the Diocese is to enjoy *full administrative freedom* within the entire political territory of the United States of America and Canada, under which "it can *independently regulate and rule* the activities of its church, school and other diocesan institutions and all funds and beneficences, through its organs, but in accordance with the laws of this constitution and in agreement with the laws of the United States of America and Canada."

Further, the Diocese did not surrender to the Serbian Patriarchate the power to alter or change its basic governing law—its Constitution. The Serbian Patriarchate was not given the power to initiate changes in the Diocesan Constitution, but was only given the power to approve changes to the Constitution introduced and adopted by the Diocesan Assembly. It is inconceivable to us that the Serbian Patriarchate, which is denied the express power to alter or amend the Constitution of the Diocese, has the implied power to totally revoke and abrogate this constitution by decreeing the Diocese to no longer be in existence. We cannot accept such conclusion and find the Constitution of the Serbian Patriarchate and that of the Diocese consistent in this regard.

Article 12 of the Patriarchate's Constitution provides that the Diocese is the main administrative division of the church in both the church hierarchical and church administrative aspect, and Article 14 significantly states: "These are the Dioceses in the Serbian Orthodox Church" and thereafter lists only the Dioceses within Yugoslavia. In a separate Article—Article 15—there are listed the Dioceses which are "under the jurisdiction of the Serbian Orthodox Church in spiritual and hierarchical aspect." Article 15 does not mention or specify that the Dioceses there listed are under the jurisdiction of the Serbian Church in the administrative aspect. It is there that the American-Canadian Diocese is listed. We believe that Article 16—granting power to establish, liquidate and reorganize Dioceses—applies only to those completely subordinated to the Serbian Orthodox Church, in the administrative aspect as well as in the spiritual and hierarchical aspect, as set forth in Article 12.

The appellees have argued that the Diocesan Assembly, as the highest executive and administrative body of the Diocese, had the power, by majority vote to amend its Constitution, and they cite Kuns v. Robertson, 154 Ill 394, 414, 40 NE 343 (1895) as authority on this point.

However, in Kuns, the Constitution contained no provision—as did Article 23(8) of the Diocesan Constitution—that the highest body of the Diocese (the Assembly, in the case at bar) in amending its Constitution, must also obtain the approval of yet another society (the Holy Bishops' Assembly of the Serbian Patriarchate, in the case at bar). As we understand the appellees' position, they claim to have validly amended the Constitution in 1963 by the action of the Diocesan Assembly alone; they do not assert that they renounced its force and effect. Having failed to obtain the aproval of the Holy Bishops' Assembly as required by the Constitution, the purported amendments cannot be valid.

In Lawson, et al. v. Kolbenson, et al., 61 Ill 405 (1871), the court held that the congregation could act by its majority and could not be controlled by a higher religious body—a synod. However, we must note the type of religious organization which the court had under consideration when making this pronouncement. At page 421, the court stated:

> "This church organization is unlike those of other denominations, where they can not exist at all except in subordination to a higher and controlling organization. This church had a complete legal existence, self-governing in character, before it united with any synod."

The Lawson case, like the Ginossi case, supra, both cited by the appellees, are the second type of case noted in Watson v. Jones, where the religious organization is completely independent of other ecclesiastical associations. They are not relevant to our determination.

The appellees suggest that the case of Romanian Orthodox Missionary Episcopate v. Trutza, 205 F2d 107 (CA 6th, 1953) is authority for the proposition that they had

the right to amend their Constitution so as to elect their own Bishop and declare their complete autonomy. Again, the bylaws and history of the Church show that Trutza is factually inapposite. In Trutza, the sole issue was defined as the right of the Episcopate to elect its own Bishop. When enacted, the bylaws provided that the Episcopate was autonomous and had power to elect its own Bishop; and that the Episcopate maintained only spiritual and canonical unity with the Romanian Orthodox Church. Thereafter, a Bishop obtained an amendment to the bylaws providing for the election of future bishops by the Holy Synod in Bucharest, and later the Episcopate further amended its bylaws to again restore this power to the Episcopate. It is nowhere contended in Trutza that any of the amendments were made in contravention of the provisions of the existing bylaws. Such is not the case here.

The appellees also rely upon the case of Russian Orthodox Greek Catholic St. Peter & St. Paul's Church of Lorain v. Burdikoff, 177 Ohio App 1, 189 NE2d 451 (CA Ohio 1962) and Ginossi, supra. In Burdikoff, the Patriarch of Moscow had long recognized the autonomy of the Metropolia in this country. The court held that the Patriarch was presented either by laches or by estoppel from now asserting its control over the Metropolia. On the record in the case at bar, we find no such basis for asserting that the appellants are prevented by laches from asserting control. In Ginossi, the Constitution of the Diocese reserved unto the Diocese "absolute and unqualified" power to amend its constitution and bylaws. Such reservation was absent in the case at bar.

The Supreme Court in Kedroff, at page 116, in referring to the case of Watson v. Jones stated: "The opinion radiates, however, a spirit of freedom for religious

organizations, an independence from secular control or manipulation, in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." This theory is applicable, however, not only to the mother religious organization, the Serbian Orthodox Church, but also to the member religious organization, the Serbian Eastern Orthodox Diocese for United States of America and Canada. In addition to being religious societies, both are constitutional societies existing within the framework of their respective bodies of law. To the extent that the Diocese retained unto itself certain matters of church government by its Constitution, it is not for the Serbian Orthodox Church to usurp these functions by the pretended power of its higher hierarchical authority.

In the last analysis it must be said that all church societies may not lend themselves precisely to the three categories set forth in Watson v. Jones, supra. As indicated in the divergence of constitutional provisions of the cases which have been before the courts, there may be varying degrees of autonomy. Where, as here, the Diocese has reserved unto itself certain powers of church administration and government, and granted unto a superior tribunal, limited powers—such as the appointment of its head and the approval of any changes in its fundamental law—those reserved powers must be protected not only from State interference, but also from interference from other ecclesiastical societies.

From the views we have expressed herein, the Serbian Orthodox Church has authority to make the ecclesiastical decisions relative to the removal and appointment of a Bishop for the Serbian Eastern Orthodox Diocese for United States of America and Canada, as well as the ap-

pointment of a temporary administrator. It exceeded its authority, however, and infringed upon the authority of the Diocese when it purported to change the geographical structure of the Diocese and eliminate its reserved administrative powers, including the control over Church properties, subject to the trust imposed thereon, by dissolving the Diocese and creating three new Dioceses.

Accordingly, the summary judgment granted by the trial court in cause No. 63-1644 is hereby reversed, as is the order dismissing the amended complaint in Cause No. 63-2313; and the causes are remanded with directions to the trial court to proceed, under proper pleading, with a full hearing on the merits of the causes in accordance with the views expressed herein.

Reversed and remanded with directions.

MORAN, P.J. and ABRAHAMSON, J., concur.

SUPPLEMENTAL OPINION ON DENIAL OF PETITION FOR REHEARING

Plaintiffs-appellees, in their petition for rehearing, vigorously contend that the court has misapprehended certain points raised in their brief. We deem this case of sufficient significance to warrant elaborating on our opinion concerning these matters.

Plaintiffs-appellees first contend that the opinion should be corrected to read that the Holy Episcopal Council of the Serbian Orthodox Church of Yugoslavia on May 10, 1963 purported to divide the American-Canadian Diocese into three new Dioceses, and on May 17, 1963, the Holy Episcopal Synod, in executing this decision, appointed Firmilian as temporary administrator of one of the three supposedly newly created Dioceses in place of Bishop

Dionisije. This is all quite true and, as pointed out in the opinion, the Serbian Orthodox Church exceeded its authority in these respects. It was without authority to disband the American-Canadian Diocese, and it follows that the purported appointments of temporary administrators and Bishops of these supposedly new Dioceses were without validity.

This decision was, however, only one of the decisions made at the May 10 meeting. The Holy Episcopal Synod, under the date of May 17, 1963, and under No. 1725/2a p 237 and under No. 1726/2a p 238, notified Firmilian of the decision to divide the Diocese and of the facts that Dionisije was Bishop of the newly created Middle Western American Diocese, and having been suspended, that he, Firmilian, was temporary administrator. Under our opinion, this notice and these decisions were likewise void.

Previously, however, under date of May 10, 1963, and under No. 1664/2a p 188, the Holy Episcopal Synod advised Bishop Dionisije that, as of that date, it had suspended him as Bishop of the American-Canadian Diocese pending examination of the charges against him, and that it was appointing Firmilian as temporary administrator thereof in his place. In our original opinion, we held that these ecclesiastical decisions were within the power of the Holy Episcopal Synod, and, as a result, Firmilian was validly appointed temporary administrator, not of one of the supposedly new Dioceses, but of the original American-Canadian Diocese. Later Bishop Dionisije was discharged as such Diocesan Bishop.

Plaintiffs-appellees object to that part of the opinion wherein we state, "We must, in this regard, accept the ecclesiastical determination that Dionisije is not the Bish-

op of the Serbian Eastern Orthodox Diocese for the United States of America and Canada." They complain that appellants are quoting this sentence for propaganda purposes; that the trial court did not hold a hearing on appellants' complaint, having dismissed it; and that the appellees thus did not have to present proof of such factors as might justify a secular court in not accepting the ecclesiastical decision of a church tribunal.

Our opinion was based on the summary presentation and the conflicting representations of the parties. No testimony was taken at the trial. Consequently, it was not our intent to prejudge what might be presented to the trial court on remandment in an orderly and complete hearing of these consolidated cases on their merits. If, upon proper pleadings, competent testimony and other valid evidence, the appellees can present a case which would warrant and justify the trial court—a civil court—in not accepting a pertinent ecclesiastical decision or decisions, we do not mean to be understood to preclude them from doing so. Our purpose in remanding the case is to afford all of the litigants a complete and full hearing on the merits pertaining to the many issues and questions involved. The factual background of this case is indeed significant, but it is not without dispute, as is evidenced by the numerous conflicting representations made to the court through extensive pleadings, depositions, affidavits, and briefs.

The legal conclusions reached in our opinion are based upon the facts as they appear to us as the case stands at this juncture. Should a full hearing develop factual matters of significance, different from those upon which this opinion is based, then our opinion would be limited accordingly.

While we have due respect for the law of judicial parsimony, we do not believe that an opinion should judicially shortchange the litigants by failing to chart a course of procedure upon return to the trial court. Such failure would aggravate, rather than aid, in the ultimate disposition of the litigation, as well as encourage further appeals.

We will only briefly comment on the contention raised upon rehearing that the 1935 Constitution of the American-Canadian Diocese was a mere contract or compact between it and the Serbian Orthodox Church, which the latter repudiated, renounced and abandoned when it sought to dissolve the Diocese, and that thereafter the Diocese did not have to obtain approval of Constitutional amendments by the Holy Bishops' Assembly as required by the Diocesan Constitution.

To us the Constitution of the Diocese is something more than a contract or compact under which certain powers were delegated by the Diocese which could allegedly be restored unto it upon a repudiation of the contract. We view the Diocesan Constitution, together with the Constitution of the Serbian Orthodox Church, as expressions of the fundamental laws governing the relationship and authority of these respective church organizations—which were thereby joined in certain respects in a hierarchical and episcopal structure—as distinguished from an autonomous or congregational church entity. An act contrary to such constitution is not a repudiation, permitting the Constitution to be abandoned and ignored. Such act is rather without validity, force or effect.

For these reasons, we adhere to the opinion herein as originally adopted, subject to the limitation expressly set forth above.

Moran, P.J. and Abrahamson, J., concur.

APPENDIX

Supreme Court, U. S.
FILED
DEC 11 1975
MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-292

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA,
a Religious Body, et al.,

Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,

Respondents.

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Pleadings—Testimony

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

Petition for Writ of Certiorari
Filed August 26, 1975
Certiorari Granted October 20, 1975

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In the
Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-292

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA,
a Religious Body, et al.,

Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

APPENDIX

RELEVANT DOCKET ENTRIES IN THE PROCEEDING BELOW

(Docket of the Circuit Court of Lake County, Illinois)

No. 63-1644

Serbian Eastern Orthodox Diocese for the United States of America and Canada, etc., et al.

vs.

Firmilian Ocokoljich, et al.

Date	*Minutes of Court*
[July 26, 1963]	[Complaint filed]
Feb. 28, 1964 (Yager)	Plaintiff given leave to file Motion for Summary Judgment herein instanter—same filed.
Apr. 27, 1964 (Yager)	Certain parties given leave to file Answer to Complaint, Amended and Supplemental Complaint, Answer to Counterclaim.
Dec. 31, 1964 (Yager)	Motion for Summary Judgment granted.

No. 63-2312

The Right Reverend Bishop Firmilian Ocokoljich, et al.

vs.

Dionisije Milivojevich

Date	*Minutes of Court*
[Oct. 14, 1963]	[Complaint filed]
Dec. 13, 1963 (Yager)	On Motion of Defendant cause consolidated and to proceed under General number 63-1644.
June 9, 1964 (Yager)	Certain Defendants given leave to file Motion to Dismiss herein instanter—same filed.
Dec. 31, 1964 (Yager)	Amended and Supplemental Complaint heretofore filed in cause Gen. No. 63-2312 dismissed.

[The Summary Judgment in favor of Plaintiffs in Gen. No. 63-1644, and the Dismissal of Gen. No. 63-2312 were reversed by the Appellate Court of Illinois on Dec. 9, 1966, and remanded for further proceedings. The following docket entries are proceedings after remand of the cases, consolidated under Gen. No. 63-1624.]

Date	*Minutes of Court*
Feb. 27, 1967 (Seidenfeld)	Plaintiff [present Petitioners] given leave to file Second Amended and Supplemental Complaint herein instanter—same filed—cause assigned to Honorable L. Eric Carey.

Apr. 27, 1967 (Seidenfeld)	[Defendants] given leave to file Motion to dismiss on their behalf—same filed.
Sept. 11, 1967 (Carey)	Second Amended & Supplemental Complaint heretofore filed herein dismissed as to certain Defendants —Motions to Dismiss Counts I and III of Second Amended & Supplemental Complaint denied. Interim Opinion Re: Motion to Dismiss . . . ordered filed. . . .
[Oct. 31, 1967]	[Defendants' Answer to Second Amended and Supplemental Complaint filed.]
Feb. 13, 1968 (Carey)	Motions by Plaintiffs to Strike etc. heard and taken under advisement by the Court—Defendants given leave to file Motion to interpret the pleadings instanter—same filed—Defendants given 10 days in which to file objections to said Motion—all as per order.
[June 17, 1968]	[Second Interim Opinion Re: (A) Motion by Defendants to Designate Parties; and (B) Motion by Plaintiffs to Strike Defendants' Answer and Counterclaim.]
June 24, 1968 (Carey)	Motion to Strike certain portions of Answer heard and allowed in part and denied in part all as per order.

[June 26, 1968]	[Defendants' Further Answer to Second Amended and Supplemental Complaint filed.]
	[Plaintiffs' Answer to Counterclaim filed.]
Nov. 13, 1968 (Carey)	Plaintiffs given leave to file Reply to Defendants' Answer and Supplemental Answer to Second Amended and Supplemental Complaint instanter—same filed.
Dec. 27, 1968 (Carey)	Cause set down for trial on April 7, 1969 at 9:30 A.M. before Judge Carey all as per order. (See Order.)
Apr. 7, 1969 (Carey)	Case called for hearing—Parties in open Court by their respective attorneys — Proofs heard — adjournment.
July 31, 1970 (Carey)	Trial resumed—Proofs closed.
Sept. 28, 1970 (Carey)	[Defendants] given leave to file instanter Motion for Temporary Injunction—Same filed.
	[Defendants' Reply to Affirmative Defense Filed.]
Nov. 12, 1970 (Carey) (Hinton)	Petition for Temporary Injunction etc., heard and denied.
[Dec. 28, 1972]	[Memorandum Opinion Filed.]

Apr. 30, 1973 (Carey)	Final Decree.
[May 18, 1973]	[Defendants' Motion to Reconsider filed.]
[May 24, 1973]	[Plaintiffs' Motion for Possession filed.]
May 30, 1973 (Carey)	Motion of Defendants to Reconsider Denied—Motion of Defendants for Stay or Supersedeas Bond Denied—Motion of Plaintiff for Possession set down for hearing.
[June 8, 1973]	[Notice of Defendants' Appeal.]
[June 18, 1973]	[Notice of Cross-Appeal.]
July 23, 1973 (Carey)	Force and effect of Paras. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19 and 20 of Court's findings and Paras. 1, 2, 3, 4, 5, 6, 8 and 10 of Decretal portion of Decree entered on April 30, 1973 and described in Notice of Appeal filed herein ordered stayed pending Appeal, and enforcement of said provisions suspended.

**PRE-TRIAL PLEADINGS,
OPINIONS AND ORDERS**

IN THE CIRCUIT COURT OF THE
19TH JUDICIAL DISTRICT OF ILLINOIS

(Title Omitted in Printing)

COMPLAINT FOR DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF

Now come the Plaintiffs herein, Serbian Eastern Orthodox Diocese for United States of America and Canada, a Corporation, and Serbian Orthodox Monastery of Saint Sava, a General Not For Profit Corporation by Snyder, Clarke, Dalziel, Holmquist & Johnson, their attorneys, and complain of the Defendants, Firmilian Ocokolich, Stevan Lastavica, Grigorie Udicki and The First State Bank of Libertyville, of Libertyville, Illinois, an Illinois Banking Corporation, as follows:

COUNT I

1. That Plaintiff Serbian Eastern Orthodox Diocese for United States of America and Canada is a religious Organization duly organized and existing under the laws of the State of Illinois, having its principal office in Libertyville, Lake County, Illinois, and Plaintiff Serbian Orthodox Monastery of Saint Sava is a General Not For Profit Corporation, organized and existing under the laws of the State of Illinois.

2. That Plaintiffs are the bona fide owners of certain funds, moneys, securities and deposits which were heretofore deposited by said Plaintiffs with the Defendant The First State Bank of Libertyville, Libertyville, Illinois, consisting of cash on deposit in various accounts and certain certificates, securities or bonds deposited in the name of

the Plaintiffs in a certain safety deposit box, said cash and securities totalling, to-wit: $63,000.00.

3. That on or about the 18th of July, 1963 the Defendant, Firmilian Ocokolich, caused to be served upon said Defendant, The First State Bank of Libertyville, Libertyville, Illinois, a Notice that said Firmilian Ocokolich purported to be the properly appointed administrator of the affairs of the Plaintiffs, and that said bank should forthwith cease and desist from disbursing any funds of said Plaintiffs, including all checking and savings accounts on deposit at said bank, and, further, to honor requests for funds or money withdrawals only upon the written direction of said Defendant.

4. That as a result of said Notice, the Defendant The First State Bank of Libertyville, Libertyville, Illinois, by reason of the conflicting claims, warnings and representations of the Defendants, as heretofore stated, is in great doubt as to which party is entitled to the proceeds of the deposits, contents of safety deposit boxes, and other assets in its hands; and said bank, after demand, refuses to make any disposition or disbursement of any such assets and funds belonging to the Plaintiffs herein.

5. That the Defendant Firmilian Ocokolich otherwise holds himself out as and presumes to act as an administrator of a portion of the property of the Plaintiffs herein, to the prejudice of the rights of the Plaintiffs and to the prejudice of the administration of their property, all without authority, right or permission of the Plaintiffs herein.

6. That the Defendant Stevan Lastavica holds himself out as, and presumes to act as an administrator of a portion of the property of the Plaintiffs herein, to the prejudice of the rights of the Plaintiffs and to the prejudice of

the administration of their property, all without authority, right or permission of the Plaintiffs herein.

7. That the Defendant Grigorie Udicki holds himself out as, and presumes to act as an administrator of a portion of the property of the Plaintiffs herein, to the prejudice of the rights of the Plaintiffs and to the prejudice of the administration of their property, all without authority, right or permission of the Plaintiffs herein.

8. That an actual and justifiable controversy involving the rights and property of the parties hereto exists between the parties.

WHEREFORE, Plaintiffs demand that the Court adjudge:

A. That none of the Defendants, Firmilian Ocokolich, Stevan Lastavica and Grigorie Udicki, are entitled to interfere with the administrative affairs, properties, moneys, assets, or functions of the Plaintiffs herein.

B. That the Defendant, The First State Bank of Libertyville, Libertyville, Illinois, be ordered to pay out said funds and deliver said property to the order of the Plaintiffs herein, their agents and duly authorized signatories, as the sole owners thereof.

C. Otherwise declare the rights of the parties herein.

COUNT II

Now come the Plaintiffs herein, Serbian Eastern Orthodox Diocese for United States of America and Canada, a Corporation, and Serbian Orthodox Monastery of Saint Sava, a General Not For Profit Corporation, by Snyder, Clarke, Dalziel, Holmquist & Johnson, their attorneys, and complain of the Defendants, Firmilian Ocokolich, Stevan Lastavica and Grigorie Udicki, as follows:

1. The Plaintiffs reallege the allegations of Paragraph 1 of Count I of this Complaint as and for Paragraph 1 of this Count with the same force and effect as if said paragraph was repeated herein in detail.

2. The Plaintiffs reallege the allegations of Paragraph 2 of Count I of this Complaint as and for Paragraph 2 of this Count with the same force and effect as if said paragraph was repeated herein in detail.

3. The Plaintiffs reallege the allegations of Paragraph 3 of Count I of this Complaint as and for Paragraph 3 of this Count with the same force and effect as if said paragraph was repeated herein in detail.

4. The Plaintiffs reallege the allegation of Paragraph 4 of Count I of this Complaint as and for Paragraph 4 of this Count with the same force and effect as if said paragraph was repeated herein in detail.

5. The Plaintiffs reallege the allegations of Paragraph 5 of Count I of this Complaint as and for Paragraph 5 of this Count with the same force and effect as if said paragraph was repeated herein in detail.

6. The Plaintiffs reallege the allegations of Paragraph 6 of Count I of this Complaint as and for Paragraph 6 of this Count with the same force and effect as if said paragraph was repeated herein in detail.

7. The Plaintiffs reallege the allegations of Paragraph 7 of Count I of this Complaint as and for Paragraph 7 of this Count with the same force and effect as if said paragraph was repeated herein in detail.

8. That the interference of said Defendants, Firmilian Ocokolich, Stevan Lastavica and Grigorie Udicki, is wilful, unlawful and without just cause.

9. That the said acts of the said Defendants, Firmilian Ocokolich, Stevan Lastavica and Grigorie Udicki, have, do, and in the future will cause irreparable injury and damage to the property of the Plaintiffs herein.

10. That the Plaintiffs have no adequate remedy at law.

WHEREFORE, the Plaintiffs pray that the Court:

A. Issue its Writ of Permanent Injunction enjoining the Defendants, Firmilian Ocokolich, Stevan Lastavica and Grigorie Udicki, from representing themselves to be bona fide administrators or agents of the Plaintiffs herein, with any dominion or control over the assets or affairs of the Plaintiffs herein.

B. Issue its Writ of Permanent Injunction restraining the Defendants, Firmilian Ocokolich, Stevan Lastavica and Grigori Udicki, from further interference with the affairs or assets of the Plaintiffs herein.

C. Such further relief as the Court deems fit and proper and the exigencies of the case require.

SNYDER, CLARKE, DALZIEL,
HOLMQUIST & JOHNSON

By *Daniel J. Dalziel*
Attorneys for the Plaintiffs.

IN THE
APPELLATE COURT OF ILLINOIS

Serbian Eastern Orthodox Diocese for United States of America and Canada, etc., et al., Plaintiffs-Appellees, v. Firmilian Ocokoljich, et al., Defendants-Appellants.

The Right Reverend Bishop Firmilian Ocokoljich, et al., Plaintiffs-Appellants, v. Dionisije Milivojevich, Defendant-Appellee.

Gen. No. 65-40.

Second District.

April 7, 1966.

Supplemental opinion September 7, 1966.

Rehearing denied September 7, 1966.

Mr. Justice Davis delivered the opinion of the court.

This appeal involves two actions—consolidated in the trial court—which narrate a dispute over the control of the Serbian Eastern Orthodox Diocese for United States and Canada, and the property and assets of this Diocese, and of a related institution. The trial court determined this matter by granting a summary judgment in one suit, and granting a motion to dismiss in the other. The judgment and order were based upon extensive pleadings, depositions and affidavits. Because of the summary presentation and the conflicting representations of the parties, the factual background necessary to an understanding of the case, is not in all respects certain.

We will relate the church and corporate histories, and the church and corporate laws of the institutions involved, as best we comprehend them under the posture of this appeal, in that such background is essential to an understanding of the issues involved in these pleadings.

In California and Pennsylvania in the 1890's, Americans of Serbian descent formed completely autonomous religious associations. In 1917, these Serbian church societies became associated with the Russian Orthodox Church which sent Father Mardarije Uskokovich to this country to organize an "independent" Serbian Diocese in America.

In the 1920's, the Diocese in this country became affiliated with the Serbian Orthodox Church of Yugoslavia. This Diocese was incorporated in 1927 under the laws of the State of Illinois, as a religious society, under the name of "Serbian Orthodox Diocese Council for United States and Canada." It duly adopted a Constitution, which was approved by the Serbian Orthodox Church of Yugoslavia.

This charter was permitted to lapse, and in 1935, a new religious society was again incorporated under the laws of the State of Illinois, and was called "Serbian Eastern Orthodox Diocese for United States of America and Canada." Its Constitution was substantially the same as that of the first corporation and it was likewise approved by the Serbian Orthodox Church of Yugoslavia.

The Holy Bishops Assembly of the Serbian Orthodox Church, Yugoslavia, elected Dionisije Milivojevich as Bishop in 1938, and the following year appointed him as Bishop of the Diocese in this country. When King Peter II of the Kingdom of Yugoslavia was deposed by the Communists in 1944, Bishop Dionisije became concerned that efforts might be made by the Communist government to obtain control of the property of the Diocese in this country. Consequently, this religious corporation, acting through its Diocesan Council, which is hereafter more fully defined, adopted a resolution calling for the incorporation—under the general not-for-profit corporate laws of the State of Illinois—of a separate corporation, to which the assets of the religious corporation would be transferred and in which the title to the various assets would be held. Such a corporation was formed in the year 1945 under the name "Serbian Orthodox Monastery of Saint Sava."

Before completing this chronology, we will briefly relate the relevant portions of the Constitutions and By-laws of the Serbian Orthodox Church; of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, the religious corporation; and of the Serbian Orthodox Monastery of Saint Sava, the not-for-profit corporation.

The Constitution of the Serbian Orthodox Church (with its headquarters in Belgrade, Yugoslavia) sets forth that the Serbian Orthodox Church is autocephalous, and governs and regulates independently, all of its religious affairs; and that it has the rank of a Patriarchate and maintains dogmatic and canonical unity with all other Orthodox Churches. It provides that the Church is episcopal with the main administrative divisions "composed of dioceses, both in regard to church hierarchical and church administrative aspect."

Article 10 provides that there are the following church hierarchical and administrative authorities, bodies and organs:

> "1. Patriarch, Holy Bishop's Council and Holy Synod, High Ecclesiastical Court, Patriarchal Council and Patriarchal Board;
>
> "2. Diocesan Bishop, diocesan ecclesiastical court, diocesan council and diocesan executive board; . . . ."

Additional authorities at a level below the dioceses are then set forth which are not pertinent to this decision.

It is provided in Article 12:

> "The Serbian Orthodox Church is episcopal. Its main administrative division is composed of dioceses, both

in regard to *church hierarchical and church administrative aspect.*" (Emphasis ours.)

Article 13 provides in part:

> "At the head of each diocese there is the diocesan bishop as its direct ruler. He is, according to the church canonical regulations, chief representative and guiding leader of all church spiritual life and church order in the diocese and he rules the diocese assisted by his clergy and laymen."

Article 14 reads: "These are the Dioceses in the Serbian Orthodox Church. . . ." It then lists a number of dioceses, all located within Yugoslavia. Article 15 provides that in addition to the dioceses previously named, there are additional dioceses outside of Yugoslavia "under the jurisdiction of the Serbian Orthodox Church *in spiritual and hierarchical aspect.*" (Emphasis ours.) Among those listed is the Serbian Orthodox Church in the United States of America and Canada. Article 16 provides that "Decisions of establishing, naming, liquidating, reorganizing, and the seat of dioceses . . . is decided by the Holy Council of Bishops, in agreement with the Patriarchal Council." For the reasons hereinafter stated, we believe that Article 16 applies only to those dioceses of the Serbian Orthodox Church which are under its jurisdiction in both church hierarchical and church administrative aspects.

Next, in the body of private laws governing the institutions before the court, is the Constitution of the Diocese. It states that the Diocese "is considered ecclesiastically—judicially as an organic part of the Serbian Patriarchate in the Kingdom of Yugoslavia." Article 2 provides that "All statutes and rules which regulate the

ecclesiastical—canonical authority and position of the Serbian Orthodox Church in the Kingdom of Yugoslavia are also compulsory" on the Diocese "with the exception of specific cases which must be formulated with regard to local circumstances in accordance with ecclesiastical and judicial principles."

Article 3 of this Constitution provides that the jurisdiction of this Diocese includes the entire political territory of the United States and Canada, which by its geographical location enjoys "full administrative freedom" under which "it can independently regulate and rule the activities of its church, schools and other diocesan institutions and all funds and beneficiaries, through its organs, but in accordance with the laws of this constitution and in agreement with the laws of the United States of America and Canada." The highest legislative and administrative authority of the Diocese is the Diocesan National Assembly; its executive and administrative organ is the Diocesan Council. The Diocesan Assembly is opened by the Diocesan Bishop. One of its functions is to make changes and amendments to the Constitution "with the approval of the Holy Bishop's (sic) Assembly of the Serbian Patriarchate."

Article 9 provides that the Bishop of the diocese shall be appointed by the Holy Assembly of Bishops of the Serbian Patriarchate. Article 13 specifies that when the seat of the Diocese Bishop is vacated, the administration of the Diocese, in spiritual and administrative matters, shall be upheld by the Diocesan Ecclesiastical Court and Diocesan Council until an administrator is appointed "by the Serbian Patriarch with the Holy Pontifical Synod." Article 14 provides that the Diocesan Bishop is the supreme head of the St. Sava Monastery in Liberty-

ville and that he appoints the abbot of the monastery and "conducts the canonical supervision and the higher executive authority over the monastery."

Article 149 provides that the property owned by the Diocese is "to serve exclusively for the purpose designated by the statutes of this Constitution and cannot be used for any other purpose." Article 155 provides that the Diocesan Fund consists of "all funds and assets which the Serbian people of the entire Diocese, individually or collectively through their church-school congregations and other various societies and organizations should establish, increase and dedicate to the mutual necessities of its church and school for the religious and educational aims of the entire Diocese." It further provides that the Diocesan Fund is to be supervised by the Diocesan Council. Article 156 provides that all real estate and personal property of the St. Sava Monastery in Libertyville is supervised by the monastery's administration "under the direct control of the Diocesan Bishop."

The Bylaws of the Serbian Orthodox Monastery of Saint Sava—the not for-profit corporation formed in 1945—provide that it is an autonomous Serbian Church institution; and further provide that the corporation "possesses its own property which cannot be disposed of, sold, mortgaged or otherwise conveyed by any Serbian Church authority, without the consent and approval of the Diocesan Council, headed by the Bishop and the Diocesan Church conventions."

Article V provides that the Diocesan Bishop, "received as such by the Diocesan Council, by the Diocesan Church court and by the Diocesan Convention, is the supreme head of the Monastery and is the general overseer according to the Holy Canons of the Church. (By-Law 156

of the Diocese.)" Article VI of the Bylaws provides that the "president of the Board of Directors shall be the canonical Bishop of the Diocese, received as such by the Diocesan Council, by the Diocesan Church Court and by the Diocesan Convention."

With the above Constitutions and corporate histories in mind, we considered the following chronology of events: On May 10, 1963, the Holy Episcopal Synod of the Serbian Orthodox Church of Yugoslavia suspended Bishop Dionisije, and at the same time appointed Firmilian Ocokoljich as administrator of the Diocese; on May 17, 1963, its Holy Episcopal Council disbanded the American-Canadian Diocese and in its place established three new Dioceses, which extended beyond the borders of the United States and Canada and included South Africa and South America; and on said latter date, the Holy Episcopal Synod appointed Firmilian Ocokoljich, Gregorije Udicki and Stefan Lastavica as temporary administrators of the respective Dioceses. The Holy Bishops' Council, on July 27, 1963, discharged Bishop Dionisije as Diocesan Bishop and elected Bishop Firmilian as Diocesan Bishop in his place. It is significant that Bishop Firmilian was not elected as Bishop of the Serbian Orthodox Diocese Council for United States and Canada, but rather was elected as Bishop of one of the three newly created Dioceses. The other two temporary administrators were likewise each respectively elected as a Bishop of one of the other two newly created Dioceses.

The Diocesan National Assembly adopted a resolution declaring the division of the Diocese into three Dioceses, to be unlawful and unconstitutional, and refused to recognize the suspension of Bishop Dionisije or the election of the other three Bishops. The Holy Bishops' Synod of the

Serbian Orthodox Church responded by declaring the Diocesan National Assembly unlawful. In reply to this, the Diocesan National Assembly, at an adjourned meeting held in November, 1963, passed amendments to the Diocese Constitution, declaring the autonomy of the Diocese and its freedom from all control of the Patriarchate in Belgrade. These amendments were not submitted to the Holy Bishops' Assembly for approval. On March 15, 1964, the Holy Episcopal Council, comprised of the Patriarch, Metropolitan and Diocesan Bishops of Yugoslavia defrocked Bishop Dionisije.

The appellees, referred to herein as the "Dionisije faction," brought the first suit in the names of the religious and not-for-profit corporation against the three Bishops of the new Dioceses, appellants, referred to herein as the "three Bishops faction," praying that none of the defendants be permitted to interfere with the administration of the properties of the plaintiff corporations. The "three Bishops faction" brought the second suit praying that the court find that Bishop Dionisije had been removed as Bishop; that the three Bishops be found to be lawfully appointed and be permitted the use of all the Diocesan properties; that only those members of the Church, who recognize the three Bishops, be acknowledged as members of the Serbian Orthodox Church for the Diocese of the United States and Canada; that the two corporations be found to hold their assets in trust for members of the Serbian Orthodox Church residing within the Dioceses, and for other similar relief. As indicated, the trial court consolidated these actions, considered the pleadings, depositions and affidavits, and granted the "Dionisije faction" summary judgment on their complaint and granted their motion to dismiss the complaint of the "three Bishops faction."

The appellants contend that the issue before this court is simply whether they or the appellees, are entitled to exercise the religious authority of the Serbian Orthodox Church in this country. Appellants assert that only ecclesiastical matters are involved, and the appellees urge that only the property rights of Illinois corporations are embraced in this litigation.

We believe that both contentions are correct, in part. While both factions claim the right to control the properties and assets held by the Illinois corporations, neither the religious nor the not-for-profit corporation may claim title to or use of the assets free of trust or use for the benefit of the members of the Diocese. The determination of the disputed right to control such properties and assets cannot be made solely by resolving the question of title or the exercise of corporate authority under the Illinois corporate laws.

Article 155 of the Constitution of the Diocese imposes a trust upon the use of the Diocesan Fund and Article 149 further limits the use of the property "to serve exclusively for the purpose designated by the statutes of this Constitution and cannot be used for any other purpose." Section 46f of the Religious Corporations Act (Ill. Rev Stats 1963, c 32, par 181) further imposes such a trust, which arises by operation of law in the absence of a declaration of trust or use in the gift, devise or grant in the instrument giving the property to the Church.

By the same token, the resolution of the Diocesan Council calling for the creation of the not-for-profit corporation to which the assets of the Diocese were to be transferred, can only have validity if this trust is likewise to follow the assets into the hands of this corpora-

tion and govern the administration of such assets. The creation of the Serbian Orthodox Monastery of Saint Sava, pursuant to the resolution of the Diocesan Council, is consistent with the degree of autonomy and administrative freedom reserved by the Diocese unto itself in Article 3 of the Constitution which provides that "it can independently regulate and rule the activities of its church, schools and other diocesan institutions and all funds and beneficences, through its organs." The bylaw of the not-for-profit corporation providing that its property "cannot be disposed of, sold, mortgaged or otherwise conveyed by any Serbian Church authority without the consent of the Diocesan Council, headed by the Bishop and the Diocesan Church conventions" is not inconsistent with either the trust imposed or the Constitutional requirements of the Diocese.

It is within the framework of these organizational laws that this dispute must be resolved. The protection of the law extends to religious associations the same as to other voluntary associations of benevolent or charitable purposes. The rights of property or other civil rights of such associations are equally under the protection of law, and the actions of their members, subject to its restraints. Ginossi v. Samatos, 3 Ill App2d 514, 520, 123 NE2d 104 (1st Dist 1954).

In Watson v. Jones, 13 Wall 679 (1871), 20 L Ed 666, the United States Supreme Court set forth the three categories of cases which have come before the courts pertaining to the rights of property held by ecclesiastical bodies, namely: (1) When the property, by the express terms of the instrument under which it is held, must be devoted to some specific form of religious doctrine or belief; (2) When the property is held by a religious congregation which, by

the nature of its organization, is strictly independent of other ecclesiastical associations, and so far as church government is concerned, owes no fealty or obligation to any higher authority; and (3) Where the ecclesiastical body holding the property is but a subordinate member of some general church organization in which there are superior ecclesiastical tribunals with a general and ultimate power of control, more or less complete, in some supreme judicatory over the whole membership of the general organization.

The Supreme Court in Kedroff v. St. Nicholas Cathedral of the Russian Orthodox Church in North America, 344 US 94 (1952) at page 110, 97 L Ed 120, 133, 134, also defined the third group—the hierarchical churches—as those organized as a body with other churches having similar faith and doctrine, with a common ruling convocation or ecclesiastical head. We do not believe it can seriously be contended that the American Diocese is not a part of such a hierarchical structure. The constitutions referred to above abound with references to the hierarchical framework, with the Serbian Orthodox Church as the General Church. The Church history indicates this is so, and the manner of incorporating the Diocese in this country further evidences this fact.

There are two methods of incorporating religious societies under the Illinois Religious Corporations Act: sections 35-46 inclusive of the Act provided for the incorporation of independent church organizations (Ill Rev Stats 1963, c 32, pars 164-175, incl.); and sections 46(a)-(k) inclusive, provide for the incorporation of any church organization which is "under the patronage, control, direction or supervision of any ecclesiastical body, diocesan or like ecclesiastical officer. . . ." (Ill Rev Stats 1963,

c 32, pars. 176-186, incl.) The Diocese in this country was incorporated in 1935 under the latter provisions. This fact, together with the constitutional language, church history and practice, clearly establishes the hierarchical nature of the Serbian Orthodox Church. Ginossi v. Samatos, supra, at 525.

In disputes involving churches, hierarchical in nature, the secular courts must accept the decisions of the ecclesiastical judicatories within the structure, as to questions of discipline, faith or ecclesiastical rule, custom or law. If a civil right depends upon an ecclesiastical matter, the civil court must take the ecclesiastical decisions as it finds them. Watson v. Jones, supra; Ferraria, et al. v. Vasconcellos, et al., 31 Ill 25, 46 (1863). It is only where the decision of a church tribunal is tainted with fraud, collusion or arbitrariness that the decision need not be accepted by the secular court. Gonzalez v. Roman Catholic Archbishop of Manila, 280 US 1, 16, 17 (1929), 74 L Ed 131, 137.

The appointment and removal of a Bishop is clearly a canonical act. Kedroff v. St. Nicholas Cathedral of the Russian Orthodox Church of North America, supra; Gonzalez v. Roman Catholic Archbishop of Manila, supra. We may not alter what was done by the ecclesiastical governing authorities in this respect. It is clear that the Diocese recognized the right of the Serbian Patriarchate in this regard by providing in Article 9 of its Constitution that its Bishop shall be appointed by the Holy Assembly of Bishops and by recognizing in Article 2, the ecclesiastical-canonical authority of the Serbian Orthodox Church in the Kingdom of Yugoslavia. We must in this regard accept the ecclesiastical determination that Dionisije is not the Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

We do not accept that it must necessarily follow, however, that the action of the Serbian Orthodox Church in dividing this Diocese into three new Dioceses, and changing its boundaries, and in appointing Bishops for the three supposedly new Dioceses, is proper. We find that there was manifested in the Constitution of the Diocese a very evident intent to retain autonomy and independence in the administration of its affairs while accepting the ecclesiastical-canonical authority and position of the Serbian Orthodox Church of Yugoslavia. Thus, Article 2 provides that the Diocese is considered ecclesiastically-judicially as an organic part of the Serbian Patriarchate. It does not state that the Diocese is considered as a part of the Patriarchate administratively. Article 3 provides that the Diocese is to enjoy *full administrative freedom* within the entire political territory of the United States of America and Canada, under which "it can *independently regulate and rule* the activities of its church, school and other diocesan institutions and all funds and beneficences, through its organs, but in accordance with the laws of this constitution and in agreement with the laws of the United States of America and Canada."

Further, the Diocese did not surrender to the Serbian Patriarchate the power to alter or change its basic governing law—its Constitution. The Serbian Patriarchate was not given the power to initiate changes in the Diocesan Constitution, but was only given the power to approve changes to the Constitution introduced and adopted by the Diocesan Assembly. It is inconceivable to us that the Serbian Patriarchate, which is denied the express power to alter or amend the Constitution of the Diocese, has the implied power to totally revoke and abrogate this constitution by decreeing the Diocese to no longer be in existence. We cannot accept such conclusion and find the Constitution

of the Serbian Patriarchate and that of the Diocese consistent in this regard.

Article 12 of the Patriarchate's Constitution provides that the Diocese is the main administrative division of the church in both the church hierarchical and church administrative aspect, and Article 14 significantly states: "These are the Dioceses in the Serbian Orthodox Church" and thereafter lists only the Dioceses with Yugoslavia. In a separate Article—Article 15—there are listed the Dioceses which are "under the jurisdiction of the Serbian Orthodox Church in spiritual and hierarchical aspect." Article 15 does not mention or specify that the Dioceses there listed are under the jurisdiction of the Serbian Church in the administrative aspect. It is there that the American-Canadian Diocese is listed. We believe that Article 16—granting power to establish, liquidate and reorganize Dioceses—applies only to those completely subordinated to the Serbian Orthodox Church, in the administrative aspect as well as in the spiritual and hierarchical aspect, as set forth in Article 12.

The appellees have argued that the Diocesan Assembly, as the highest executive and administrative body of the Diocese, had the power, by majority vote to amend its Constitution, and they cite Kuns v. Robertson, 154 Ill 394, 414, 40 NE 343 (1895) as authority on this point. However, in Kuns, the Constitution contained no provision—as did Article 23(8) of the Diocesan Constitution—that the highest body of the Diocese (the Assembly, in the case at bar) in amending its constitution, must also obtain the approval of yet another society (the Holy Bishops' Assembly of the Serbian Patriarchate, in the case at bar). As we understand the appellees' position, they claim to have validly amended the Constitution in 1963 by the action of the

Diocesan Assembly alone; they do not assert that they renounced its force and effect. Having failed to obtain the approval of the Holy Bishops' Assembly as required by the Constitution, the purported amendments cannot be valid.

In Lawson, et al. v. Kolbenson, et al., 61 Ill 405 (1871), the court held that the congregation could act by its majority and could not be controlled by a higher religious body—a synod. However, we must note the type of religious organization which the court had under consideration when making this pronouncement. At page 421, the court stated:

> "This church organization is unlike those of other denominations, where they can not exist at all except in subordination to a higher and controlling organization. This church had a complete legal existence, self-governing in character, before it united with any synod."

The Lawson case, like the Ginossi case, supra, both cited by the appellees, are the second type of case noted in Watson v. Jones, where the religious organization is completely independent of other ecclesiastical associations. They are not relevant to our determination.

The appellees suggest that the case of Romanian Orthodox Missionary Episcopate v. Trutza, 205 F2d 107 (CA 6th, 1953) is authority for the proposition that they had the right to amend their Constitution so as to elect their own Bishop and declare their complete autonomy. Again, the bylaws and history of the Church show that Trutza is factually inapposite. In Trutza, the sole issue was defined as the right of the Episcopate to elect its own Bishop. When enacted, the bylaws provided that the Episcopate

was autonomous and had power to elect its own Bishop; and that the Episcopate maintained only spiritual and canonical unity with the Romanian Orthodox Church. Thereafter, a Bishop obtained an amendment to the bylaws providing for the election of future bishops by the Holy Synod in Bucharest, and later the Episcopate further amended its bylaws to again restore this power to the Episcopate. It is nowhere contended in Trutza that any of the amendments were made in contravention of the provisions of the existing bylaws. Such is not the case here.

The appellees also rely upon the case of Russian Orthodox Greek Catholic St. Peter & St. Paul's Church of Lorain v. Burdikoff, 177 Ohio App 1, 189 NE2d 451 (CA Ohio 1962) and Ginossi, supra. In Burdikoff, the Patriarch of Moscow had long recognized the autonomy of the Metropolia in this country. The court held that the Patriarch was prevented either by laches or by estoppel from now asserting its control over the Metropolia. On the record in the case at bar, we find no such basis for asserting that the appellants are prevented by laches from asserting control. In Ginossi, the Constitution of the Diocese reserved unto the Diocese "absolute and unqualified" power to amend its constitution and bylaws. Such reservation was absent in the case at bar.

The Supreme Court in Kedroff, at page 116, in referring to the case of Watson v. Jones stated: "The opinion radiates, however, a spirit of freedom for religious organizations, an independence from secular control or manipulation, in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." This theory is applicable, however, not only to the mother religious organization, the Serbian Orthodox Church, but also to the member religious

organization, the Serbian Eastern Orthodox Diocese for United States of America and Canada. In addition to being religious societies, both are constitutional societies existing within the framework of their respective bodies of law. To the extent that the Diocese retained unto itself certain matters of church government by its Constitution, it is not for the Serbian Orthodox Church to usurp these functions by the pretended power of its higher hierarchical authority.

In the last analysis it must be said that all church societies may not lend themselves precisely to the three categories set forth in Watson v. Jones, supra. As indicated in the divergence of constitutional provisions of the cases which have been before the courts, there may be varying degrees of autonomy. Where, as here, the Diocese has reserved unto itself certain powers of church administration and government, and granted unto a superior tribunal, limited powers—such as the appointment of its head and the approval of any changes in its fundamental law—those reserved powers must be protected not only from State interference, but also from interference from other ecclesiastical societies.

From the views we have expressed herein, the Serbian Orthodox Church has authority to make the ecclesiastical decisions relative to the removal and appointment of a Bishop for the Serbian Eastern Orthodox Diocese for United States of America and Canada, as well as the appointment of a temporary administrator. It exceeded its authority, however, and infringed upon the authority of the Diocese when it purported to change the geographical structure of the Diocese and eliminate its reserved administrative powers, including the control over Church properties, subject to the trust imposed thereon, by dissolving the Diocese and creating three new Dioceses.

Accordingly, the summary judgment granted by the trial court in cause No. 63-1644 is hereby reversed, as is the order dismissing the amended complaint in Cause No. 63-2313; and the causes are remanded with directions to the trial court to proceed, under proper pleading, with a full hearing on the merits of the causes in accordance with the views expressed herein.

Reversed and remanded with directions.

MORAN, P.J. and ABRAHAMSON, J., concur.

SUPPLEMENTAL OPINION ON DENIAL OF PETITION FOR REHEARING

Plaintiffs-appellees, in their petition for rehearing, vigorously contend that the court has misapprehended certain points raised in their brief. We deem this case of sufficient significance to warrant elaborating on our opinion concerning these matters.

Plaintiffs-appellees first contend that the opinion should be corrected to read that the Holy Episcopal Council of the Serbian Orthodox Church of Yugoslavia on May 10, 1963, purported to divide the American-Canadian Diocese into three new Dioceses, and on May 17, 1963, the Holy Episcopal Synod, in executing this decision, appointed Firmilian as temporary administrator of one of the three supposedly newly created Dioceses in place of Bishop Dionisije. This is all quite true and, as pointed out in the opinion, the Serbian Orthodox Church exceeded its authority in these respects. It was without authority to disband the American-Canadian Diocese, and it follows that the purported appointments of temporary administrators and Bishops of these supposedly new Dioceses were without validity.

This decision was, however, only one of the decisions made at the May 10 meeting. The Holy Episcopal Synod, under the date of May 17, 1963, and under No. 1725/2a p 237 and under No. 1726/2a p 238, notified Firmilian of the decision to divide the Diocese and of the facts that Dionisije was Bishop of the newly created Middle Western American Diocese, and having been suspended, that he, Firmilian, was temporary administrator. Under our opinion, this notice and these decisions were likewise void.

Previously, however, under date of May 10, 1963, and under No. 1664/2a p 188, the Holy Episcopal Synod advised Bishop Dionisije that, as of that date, it had suspended him as Bishop of the American-Canadian Diocese pending examination of the charges against him, and that it was appointing Firmilian as temporary administrator thereof in his place. In our original opinion, we held that these ecclesiastical decisions were within the power of the Holy Episcopal Synod, and, as a result, Firmilian was validly appointed temporary administrator, not of one of the supposedly new Dioceses, but of the original American-Canadian Diocese. Later Bishop Dionisije was discharged as such Diocesan Bishop.

Plaintiffs-appellees object to that part of the opinion wherein we state, "We must, in this regard, accept the ecclesiastical determination that Dionisije is not the Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada." They complain that appellants are quoting this sentence for propaganda purposes; that the trial court did not hold a hearing on appellants' complaint, having dismissed it; and that the appellees thus did not have to present proof of such factors as might justify a secular court in not accepting the ecclesiastical decision of a church tribunal.

Our opinion was based on the summary presentation and the conflicting representations of the parties. No testimony was taken at the trial. Consequently, it was not our intent to prejudge what might be presented to the trial court on remandment in an orderly and complete hearing of these consolidated cases on their merits. If, upon proper pleadings, competent testimony and other valid evidence, the appellees can present a case which would warrant and justify the trial court—a civil court—in not accepting a pertinent ecclesiastical decision or decisions, we do not mean to be understood to preclude them from doing so. Our purpose in remanding the case is to afford all of the litigants a complete and full hearing on the merits pertaining to the many issues and questions involved. The factual background of this case is indeed significant, but it is not without dispute, as is evidenced by the numerous conflicting representations made to the court through extensive pleadings, depositions, affidavits, and briefs.

The legal conclusions reached in our opinion are based upon the facts as they appear to us as the case stands at this juncture. Should a full hearing develop factual matters of significance, different from those upon which this opinion is based, then our opinion would be limited accordingly.

While we have due respect for the law of judicial parsimony, we do not believe that an opinion should judicially shortchange the litigants by failing to chart a course of procedure upon return to the trial court. Such failure would aggravate, rather than aid, in the ultimate disposition of the litigation, as well as encourage further appeals.

We will only briefly comment on the contention raised upon rehearing that the 1935 Constitution of the American-Canadian Diocese was a mere contract or compact between it and the Serbian Orthodox Church, which the latter repudiated, renounced and abandoned when it sought to dissolve the Diocese, and that thereafter the Diocese did not have to obtain approval of Constitutional amendments by the Holy Bishops' Assembly as required by the Diocesan Constitution.

To us the Constitution of the Diocese is something more than a contract or compact under which certain powers were delegated by the Diocese which could allegedly be restored unto it upon a repudiation of the contract. We view the Diocesan Constitution, together with the Constitution of the Serbian Orthodox Church, as expressions of the fundamental laws governing the relationship and authority of these respective church organizations—which were thereby joined in certain respects in a hierarchical and episcopal structure—as distinguished from an autonomous or congregational church entity. An act contrary to such constitution is not a repudiation, permitting the Constitution to be abandoned and ignored. Such act is rather without validity, force or effect.

For these reasons, we adhere to the opinion herein as originally adopted, subject to the limitation expressly set forth above.

Moran, P.J. and Abrahamson, J., concur.

IN THE CIRCUIT COURT OF THE
19TH JUDICIAL DISTRICT OF ILLINOIS

(Title Omitted in Printing)

SECOND AMENDED AND SUPPLEMENTAL COMPLAINT

COUNT I

Plaintiffs, Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious body, and Firmilian Ocokoljich, complain of the defendants Dionisije Milivojevich, Serbian Orthodox Monastery of St. Sava, an Illinois not for profit corporation, Serbian Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, Right Reverend Bishop Iriney, Nikola Stepanovich, Svetozar Maravich, Uros Seferovich, Todor Polich, Nikola Sever, Robert Vujovich, Milutin Djordjevich, Nikola Cabraja, Bob Lagather, Milutin Bajcetich, Milan Tomich, Mitar Bulatovich, Nikola Krguljac, Mike Radakovich, Steven Balach, Dragoljub, and Voja Popovich, as follows:

1. Plaintiff Serbian Eastern Orthodox Diocese for the United States of America and Canada (sometimes hereinafter referred to as "the diocese") is a hierarchically organized religious body which was established in 1921 in accordance with the customs and canons of the Serbian Orthodox Church.

2. Defendant Serbian Eastern Orthodox Diocese for the United States of America and Canada (sometimes hereinafter referred to as "the religious corporation") is a religious corporation duly incorporated in 1935 under Sections 46a-46k of the Illinois Religious Corporation Act (Ill. Rev. Stat. 1965, chap. 32, para. 176-186).

3. The religious corporation was established for the purpose of acting as the secular arm of the diocese.

4. Plaintiff Firmilian Ocokoljich is the duly appointed temporary administrator of the diocese, and by virtue of that position, the presiding officer of the religious corporation.

5. Defendant Dionisije Milivojevich is a former bishop of the diocese and former presiding officer of the religious corporation. He resides in the County of Lake, State of Illinois.

6. Defendant Serbian Orthodox Monastery of St. Sava (sometimes hereinafter referred to as "the not for profit corporation") is a general not for profit corporation organized in 1945 and existing under the laws of the State of Illinois and has its principal office in the County of Lake, State of Illinois.

7. Upon information and belief, all other individual defendants purport to be members of the Executive Board of the religious corporation or members of the Board of Directors of the not for profit corporation or purport to act in both capacities.

8. The diocese was at all times relevant hereto ecclesiastically and hierarchically a subordinate member of the Hierarchically structured Serbian Orthodox Church whose principal See is in Belgrade, Yugoslavia.

9. The supreme legislative authority in matters of faith, officiation, church order, and internal organization as well as the supreme juridical authority of the Serbian Orthodox Church is the Holy Assembly of Bishops.

10. The supreme executive body of the Serbian Orthodox Church is the Holy Episcopal Synod.

11. On May 10, 1963, the Holy Episcopal Synod, upon the recommendation of the Holy Assembly of Bishops, suspended the defendant Dionisije Milivojevich from his duties and privileges as bishop of the diocese. A true and correct translated copy of that decision is attached to this complaint as "Exhibit A" and incorporated herein.

12. By its decision of May 10, 1963, the Holy Episcopal Synod appointed plaintiff Firmilian Ocokoljich temporary administrator of the diocese. That decision is included in "Exhibit A" to this second amended and supplemental complaint.

13. By its decision of July 27, 1963, the Holy Assembly of Bishops removed the defendant Dionisije as bishop of the Middle Western American Diocese for the United States of America and Canada. A true and correct translated copy of that decision is attached to this complaint as "Exhibit B" and incorporated herein.

14. By its judgment of March 15, 1964, the Holy Assembly of Bishops divested the defendant Dionisije of his episcopal and monastic ranks. A true and correct translated copy of that decision is attached to this complaint as "Exhibit C" and incorporated herein.

15. The defendant religious corporation and defendant not for profit corporation hold title to various properties, both real and personal, in trust for all members of the diocese.

16. Defendants, and each of them, hereinabove named, have since May 10, 1963, unlawfully controlled and continue unlawfully to control the religious corporation and the not for profit corporation and the properties of these corporations which are held in trust for all members of the diocese.

17. Plaintiff Firmilian Ocokoljich, by virtue of his position as the duly appointed temporary administrator of the diocese and presiding officer of the religious corporation, has on numerous occasions since May 21, 1963 demanded that the defendants, and each of them, hereinabove named, relinquish to plaintiff Firmilian Ocokoljich, as trustee for all members of the diocese, the administrative control of these corporations and their assets, books, and records.

18. Since May 10, 1963, the defendant, Dionisije Milivojevich has, by various statements and conduct, refused to recognize the validity of the decisions of the Holy Assembly of Bishops and Holy Episcopal Synod which are described in paragraphs 11 and 12 of Count I of this second amended and supplemental complaint; and since May 10, 1963, has on frequent occasions refused to recognize the authority of the Holy Assembly of Bishops and Holy Episcopal Synod over himself and over the diocese, and has refused to recognize the trust impressed upon the assets of the diocese, the religious corporation and the not for profit corporation.

19. The other individual defendants have since May 10, 1963 also repeatedly refused to comply with the demand described in paragraph 17 of Count I of this second amended and supplemental complaint.

20. On or about August 6, 1963, and November 12, 1963, and again on or about September 28, 1966, the individual defendants purported to convene Diocesan Lay-Clergy Assemblies at which numerous resolutions were purportedly passed and subsequently implemented. Those Assemblies were convened without warrant in law and the actions taken at those Assemblies have never been approved by the Holy Assembly of Bishops as required by the

Constitutions of the diocese and the Constitution of the Serbian Orthodox Church.

21. By reason of the individual defendants' unlawful control and management of the assets of the diocese, the religious and not for profit corporations, the indicia and external symbols of religious authority, and by reason of the facts alleged in paragraph 20 of this second amended and supplemental complaint, the diocese has suffered and will continue to suffer irreparable damage in that it cannot adequately function as an external organization of members of a hierarchically organized religion and in that its assets are being wasted and are not being used in accordance with the trust which has been impressed upon them; and plaintiff Firmilian Ocokoljich has suffered and will continue to suffer irreparable damage in that he is prevented from fulfilling his duties and exercising his rights as the temporary administrator of a hierarchically organized religious body, all in violation of the United States and Illinois Constitutions and of the Constitutions of the Serbian Orthodox Church and the diocese.

WHEREFORE, plaintiffs respectfully request that this Honorable Court enter an order:

A. Enforcing the decisions of the Holy Assembly of Bishops and Holy Episcopal Synod of the Serbian Orthodox Church insofar as these decisions relate to the management and control of the religious corporation and the not for profit corporation by requiring that the assets and income of those corporations be used in accordance with the trust impressed upon them.

B. Enjoining the defendants from interfering with the decisions of the Holy Assembly of Bishops and Holy Episcopal Synod of the Serbian Orthodox Church insofar as these decisions relate to the management and control of

the diocese, the religious corporation and the not for profit corporation.

C. Requiring the defendants to account for all defendants' acts regarding the diocese, the religious and not for profit corporations since May 10, 1963 and the assets and income thereof.

D. Granting such other relief as equity may require.

COUNT II

In the alternative, plaintiffs The Right Reverend Bishop Firmilian Ocokoljich, The Right Reverend Bishop Gregory Udicki, The Middle Western American Diocese of the Serbian Orthodox Church, The Western American Diocese of the Serbian Orthodox Church, the Middle Eastern American-Canadian Diocese of the Serbian Orthodox Church, complain of the defendants Dionisije Milivojevich, Serbian Orthodox Monastery of St. Sava, an Illinois not for profit corporation, The Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, Right Reverend Bishop Iriney, Nikola Stepanovich, Svetozar Maravich, Uros Seferovich, Todor Polich, Nikola Sever, Robert Vujovich, Milutin Djordjevich, Nikola Cabraja, Bob Lagather, Milutin Bajcetich, Milan Tomich, Mital Bulatovich, Nikola Kraguljac, Mile Radakovich, Steven Balach, Dragoljub Mitich, and Voja Popovich, as follows:

1. Plaintiff The Right Reverend Bishop Firmilian Ocokoljich (hereinafter sometimes referred to as "Bishop Firmilian") is the duly elected and consecrated bishop of the plaintiff Middle Western American Diocese of the Serbian Orthodox Church and the acting temporary administrator of the plaintiff Middle Eastern American-Canadian Diocese of the Serbian Orthodox Church.

2. Plaintiff The Right Reverend Bishop Gregory Udicki (hereinafter sometimes referred to as "Bishop Gregory") is the duly elected and consecrated bishop of the Western American Diocese of the Serbian Orthodox Church.

3. The three plaintiff dioceses (sometimes hereinafter referred to as "the three new dioceses") are the three dioceses of the Serbian Orthodox Church in the United States of America and Canada.

4. Defendant Dionisije Milivojevich (hereinafter sometimes referred to as "Dionisije") was formerly the bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada (hereinafter sometimes referred to as "the old diocese") and is a resident of Lake County, Illinois.

5. The defendant Serbian Eastern Orthodox Diocese for the United States of America and Canada (hereinafter sometimes referred to as "the religious corporation") is a religious corporation duly incorporated in 1935 under Sections 46a-46k of the Illinois Religious Corporations Act (Ill.Rev.Stat. 1965, Chap. 32, para. 176-186).

6-7. Plaintiffs reallege and incorporate herein the allegations contained in paragraphs 6 and 7 of Count I of this second amended and supplemental complaint.

8. The old diocese and the three new dioceses were at all times relevant hereto ecclesiastically and hierarchically subordinate members of the hierarchically structured Serbian Orthodox Church whose principal See is in Belgrade, Yugoslavia.

9-10. Plaintiffs reallege and incorporate herein the allegations contained in paragraphs 9 and 10 of Count I of this second amended and supplemental complaint.

11. By virtue of his position as bishop, defendant Dionisije lawfully controlled the affairs of the old diocese until May 10, 1963.

12. Also by virtue of his position as bishop, Dionisije was, until May 10, 1963, the president of the Board of Trustees of the religious corporation and the supreme head of the not for profit corporation, which holds title to real and personal property in trust for all members of the diocese.

13. On May 10, 1963, Dionisije was suspended from his duties and privileges as bishop and the plaintiff Bishop Firmilian was appointed as temporary administrator of the Serbian Eastern Orthodox Diocese for the United States of America and Canada by the decision of the Holy Episcopal Synod of the Serbian Orthodox Church upon the recommendation of the Holy Assembly of Bishops. A true and correct translated copy of that decision is attached to this complaint as "Exhibit A" and incorporated herein.

14. By a subsequent decision of May 10, 1963, the Holy Assembly of Bishops created the three new dioceses to replace and to succeed in all respects to the status of the old diocese. A true and correct translated copy of that decision is attached to this complaint as "Exhibit D" and incorporated herein.

15. By its decision of May 10, 1963, the Holy Assembly of Bishops appointed the plaintiff Bishop Firmilian as temporary administrator of the plaintiff Middle Western American Diocese; Bishop Stefan Lastavica as temporary administrator of the plaintiff Middle Eastern American-Canadian Diocese; and the plaintiff Bishop Gregory as temporary administrator of the Western American Diocese. A true and correct translated copy of that decision

is attached to this complaint as "Exhibit E" and incorporated herein.

16. Since May 10, 1963, the defendant Dionisije has by various statements and conduct, refused to recognize the validity of the decisions, copies of which are attached to this complaint as Exhibits "A", "B", "C", "D" and "E"; and since May 10, 1963, has on frequent occasions refused to recognize the authority of the Holy Assembly of Bishops and Holy Episcopal Synod over himself and over the diocese and has refused to recognize the trust impressed upon the assets of the diocese, the religious corporation, and the not for profit corporation.

17-18. Plaintiffs reallege and incorporate herein the allegations contained in paragraphs 13 and 14 of Count I of this second amended and supplemental complaint.

19. By its decision of July 27, 1963, the Holy Assembly of Bishops appointed plaintiff Bishop Firmilian bishop of the plaintiff Middle Western American Diocese; plaintiff Bishop Gregory bishop ofthe Western American Diocese; and the late Stefan Lastavica as bishop of the plaintiff Middle Eastern American-Canadian Diocese.

20. Bishop Stefan Lastavica died on May 10, 1966.

21. Since May 10, 1966, Bishop Firmilian has been acting temporary administrator of the plaintiff Middle Eastern American-Canadian Diocese of the Serbian Church.

22. Since May 10, 1963, the defendants have had no authority to act on behalf of the old or any of the three new dioceses or on behalf of the not for profit corporation, or the religious corporation or otherwise in any respect whatsoever.

23. The plaintiff bishops, by virtue of their positions, have from time to time made demands upon the individual defendants to relinquish to plaintiffs the administrative control and management of the corporations in accordance with the rulings and orders of the Holy Assembly of Bishops and of the Holy Episcopal Synod and to turn over to plaintiffs all of the books and records of the corporations.

24. The defendants have repeatedly refused to comply with these demands and have illegally purported to continue to manage the affairs and the property of the three new dioceses and of the religious and not for profit corporations which belong properly and exclusively within the control of the individual plaintiffs as the duly appointed trustees for all members of the diocese.

25. Plaintiffs reallege and incorporate herein the allegations contained in paragraph 20 of Count I of this second amended and supplemental complaint.

26. By reason of the individual defendants' unlawful control and management of the religious and not for profit corporations and of the assets of the plaintiff dioceses, the indicia and external symbols of religious authority and by reason of the facts alleged in paragraph 20 of Count I of this second amended and supplemental complaint, the three new dioceses have suffered and will continue to suffer irreparable damage in that they cannot adequately function as external organizations of members of the aforesaid hierarchically organized church and in that their assets are being wasted and are not being used in accordance with the trust which has been impressed upon them; and the individual plaintiffs have suffered and will continue to suffer irreparable damage in that they are prevented from fulfilling their duties and exercising their rights as bishops of a hierarchically organized religion, all in viola-

tion of the United States and Illinois Constitutions, and of the Constitutions of the Serbian Orthodox Church and the Serbian Eastern Orthodox Diocese for the United States and Canada.

WHEREFORE, plaintiffs respectfully request that this Honorable Court enter an order:

A. Enforcing the decisions of the Holy Assembly of Bishops and Holy Episcopal Synod of the Serbian Orthodox Church insofar as these decisions relate to the management and control of the religious corporation and the not for profit corporation by requiring that the assets and income of those corporations be used in accordance with the trust impressed upon them.

B. Enjoining the defendants from interfering with the decisions of the Holy Assembly of Bishops and Holy Episcopal Synod of the Serbian Orthodox Church insofar as these decisions relate to the management and control of the religious corporation and the not for profit corporation.

C. Requiring the defendants to account for all defendants' acts regarding the religious and not for profit corporations since May 10, 1963, and the assets and income thereof.

D. Granting such other relief as equity may require.

COUNT III

Plaintiffs Very Reverend Dusan Popovich, Very Reverend Dusan Klipa, Very Reverend Vladimir Mrvichin, Emil Drobac, Sam Milanovich and Donald Kral on their own behalf and on behalf of all members of the class which they represent, complain of the defendants Serbian Eastern Orthodox Diocese for the United States of America

and Canada, an Illinois religious corporation, Serbian Orthodox Monastery of St. Sava, an Illinois not for profit corporation, Dionisije Milivojevich, Right Reverend Bishop Iriney, Nikola Stepanovich, Svetozar Marabich, Uros Serferovich, Todor Polich, Nikola Sever, Robert Vujovich, Milutin Djordjevich, Nikola Cabraja, Bob Lagather, Milutin Bajcetich, Milan Tomich, Mitar Bulatovich, Mikela Kraguljac, Mike Radakovich, Steve Balach, Dragoljub Mitich, and Voga Popovich, as follows:

1. Plaintiffs Very Reverend Dusan Popovich, Very Reverend Dusan Klipa, Very Reverend Vladimir Mrvichin, Emil Droback, Sam Milanovich, and Donald Kral are members of the Serbian Eastern Orthodox Diocese for the United States of America and Canada (hereinafter sometimes referred to as "the diocese") who recognize their ecclesiastical and hierarchical allegiance to the Serbian Orthodox Church whose principal See is in Belgrade, Yugoslavia.

2. The total membership of the class described in paragraph 1 of this Count III is approximately 100,000.

3. Plaintiffs can adequately represent all members of the class described in paragraphs 1 and 2 of this Count III.

4. Plaintiffs bring this action on their own behalf and on behalf of all members of the class described in paragraphs 1 and 2 of this Count III.

5. The defendant Serbian Eastern Orthodox Diocese for the United States of America and Canada (sometimes hereinafter referred to as "the religious corporation") is a religious corporation duly incorporated in 1935 under Sections 46a-46k of the Illinois Religious Corporations Act (Ill.Rev.Stat. 1965, chap. 32, pars. 176-186).

6. Defendant Serbian Orthodox Monastery of St. Sava (sometimes hereinafter referred to as "the not for profit corporation") is a general not for profit corporation organized in 1945 and existing under the laws of the State of Illinois and has its principal office in the County of Lake, State of Illinois.

7. Defendant Dionisije Milivojevich (sometimes hereinafter referred to as "Dionisije") was formerly the bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada (sometimes hereinafter referred to as "the diocese") and is a resident of the County of Lake, Illinois.

8. By virtue of his position as bishop, Dionisije was, until May 10, 1963, the president of the Board of Trustees of the religious corporation and the supreme head of the not for profit corporation, which holds title to real and personal property in trust for all members of the diocese.

9. Among the assets of the religious and not for profit corporations are the following: a Priests' Pension Fund, established on or about January 1, 1953 to provide pensions for all priests of the diocese and for orphan children and widows of all priests of the diocese; a cemetery located at the Serbian Orthodox Monastery of St. Sava in Libertyville, Illinois; real estate improved with a church on the grounds of the Serbian Orthodox Monastery of St. Sava in Libertyville, Illinois.

10-23. Plaintiffs reallege and incorporate herein the allegations contained in paragraphs 7 through 20 of Count I of this second amended and supplemental complaint.

24. Because of plaintiffs' recognition of their ecclesiastical and hierarchical allegiance and subordination to the Serbian Orthodox Church and to its supreme judicatory,

defendants have, since May 10, 1963, denied to plaintiffs and the members of the class they represent the freedom of religion guaranteed to plaintiffs by the Constitutions of the United States and of the State of Illinois. More specifically, defendants have wrongfully denied to plaintiffs: (a) the right to participate and to share in the Priests' Pension Fund, which was established on or about January 1, 1953 to provide pensions for all priests of the diocese and for orphan children and widows of all priests of the diocese; (b) the right to use the cemetery at the Serbian Orthodox Monastery of St. Sava; and (c) the right to use the church and grounds of the Serbian Orthodox Monastery of St. Sava.

WHEREFORE, plaintiffs respectfully request that this Honorable Court issue an order:

A. Enjoining defendants from interfering with the right of plaintiffs Very Reverend Dusan Popovich, Very Reverend Dusan Klipa, Very Reverend Vladimir Mrvichin, Emil Drobac, Sam Milanovich, and Donald Kral and all other members of the class which they represent, to participate and to share in the Priests' Pension Fund.

B. Enjoining defendants from interfering with the right of plaintiffs Very Reverend Dusan Popovich, Very Reverend Dusan Klipa, Very Reverend Vladimir Mrvichin, Emil Drobac, Sam Milanovich, and Donald Kral and all other members of the class which they represent to use the cemetery of the Serbian Orthodox Monastery of St. Sava.

C. Enjoining defendants from interfering with the right of plaintiffs and of the class which they represent to use the church and grounds of the Serbian Orthodox Monastery of St. Sava.

D. Requiring defendants to account for the properties which are controlled by defendants and which are held in trust for all members of the diocese.

E. Granting such other relief as equity may require.

COUNT IV

As an alternative to Count III, plaintiffs Very Reverend Dusan Popovich, Very Reverend Dusan Klipa, Very Reverend Vladimir Mrvichin, Emil Drobac, Sam Milanovich, and Donald Kral on their own behalf and on behalf of the class which they represent, complain of the defendants, Dionisije Milivojevich, Svetozar Maravich, Uros Seferovich, Vojar Popovich, Nikola Cabraja, Robert Vujnovich, Mike Radakovich, Nikola Stepanovich, The Serbian Eastern Orthodox Diocese for the United States of America and Canada and Serbian Orthodox Monastery of St. Sava as follows:

1. Plaintiff Very Reverend Dusan Popovich and Emil Drobac are members of the Middle Western American Diocese of the Serbian Orthodox Church.

2. Plaintiffs Very Reverend Duran Klipa and Sam Milanovich are members of the Middle Eastern American-Canadian Diocese of the Serbian Orthodox Church.

3. Plaintiffs Very Reverend Vladimir Mrvichin and Donald Kral are members of the Western American Diocese of the Serbian Orthodox Church.

4. The three dioceses of the Serbian Orthodox Church in the United States of America and Canada (sometimes hereinafter referred to as "the three new dioceses") are as follows: The Middle Western American Diocese of the Serbian Orthodox Church, The Western American Diocese of the Serbian Orthodox Church, and The Middle

Eastern American-Canadian Diocese of the Serbian Orthodox Church.

5-7. Plaintiffs reallege and incorporate herein the allegations contained in paragraphs 2 through 4 of Count III of this second amended and supplemental complaint.

8-29. Plaintiffs reallege and incorporate herein the allegations contained in paragraphs 4 through 25 of Count II of this second amended and supplemental complaint.

30-31. Plaintiffs reallege and incorporate herein the allegations contained in paragraphs 9 and 24 of Count III of this second amended and supplemental complaint.

WHEREFORE, plaintiffs respectfully request that this Honorable Court issue an order:

A. Enjoining defendants from interfering with the right of plaintiffs Very Reverend Dusan Popovich, Very Reverend Dusan Klipa, Very Reverend Vladimir Mrvichin, Emil Drobac, Sam Milanovich, and Donald Kral and all other members of the class which they represent to participate and to share in the Priests' Pension Fund.

B. Enjoining defendants from interfering with the right of plaintiffs Very Reverend Dusan Popovich, Very Reverend Dusan Klipa, Very Reverend Vladimir Mrvichin, Emil Drobac, Sam Milanovich, and Donald Kral and all other members of the class which they represent to use the cemetery of the Serbian Orthodox Monastery of St. Sava.

C. Enjoining defendants from interfering with the right of plaintiffs and of the class which they represent to use the church and grounds of the Serbian Orthodox Monastery of St. Sava.

D. Requiring defendants to account for the properties which are controlled by defendants and which are held in trust for all members of the diocese.

E. Granting such other relief as equity may require.

Respectfully submitted,

John J. Crown

One of the attorneys for
Plaintiffs

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EXHIBIT A

The Holy Episcopal Synod of the
Serbian Orthodox Church

No. 1664/zap. 188

May 10, 1963

Belgrade

To the Very Reverend
Dr. Firmilian Ocokoljich, Administrator
of the Mid-Western American Diocese
Pittsburgh

The Holy Episcopal Synod, under the above number and date, informed His Grace Bishop Dionisije of the following:

"Your Grace,

The Holy Episcopal Council in its meeting of May 10, 1963, examined the subject of the charges submitted against Your Grace, and concerning the same, under AS No. 20 and 21/zap. 77 of 1963, brought this decision:

"The subject of charges against His Grace The Bishop of America and Canada, Dionisije, is to be submitted to the Holy Episcopal Synod with the recommendation that it take action in accordance with Article 219 and 220, Constitution of the Serbian Orthodox Church, and Section 67 and 90, Code and Regulations for Ecclesiastical Courts of the Serbian Orthodox Church (Penal Code)."

"Relative to this the Holy Episcopal Synod in its meeting under the above number and date, brought this decision:

"Executing the recommendation of the Holy Episcopal Council AS No. 20 and 21 of May 10, 1963, the Holy Epis-

copal Synod on the basis of Section 67 and 90 Code and Regulations for the Ecclesiastical Courts of the Serbian Orthodox Church, orders the commencement of arraignment proceedings against His Grace Bishop Dionisije and in accord with Article 219 and 220 Constitution of the Serbian Orthodox Church suspends him from priestly functions, decreases his remuneration to one half and relieves him from diocesan government till his guilt is conclusively investigated and judged."

We respectfully inform Your Grace of the above and request that you take appropriate steps to relinquish the government of the diocese in your charge to the appointed administrator, the Very Reverend Archimandrite Dr. Firmilian Ocokoljich, your Episcopal Deputy and pastor of the Serbian Orthodox Church in Pittsburgh till your guilt is conclusively investigated and judged."

The above is sent to you for your information.

For the President of the
Holy Episcopal Synod
Member, Bishop of Timok

(Signed) EMILIJAN

EXHIBIT B

THE HOLY BISHOPS' SYNOD OF
THE SERBIAN ORTHODOX CHURCH

No. 2401/zap. 354

July 29th, 1963

Belgrade

Rt. Rev. Archmandrite
FIRMILIAN OCOKOLJICH,
newly elected
Bishop of the Middle-Western
American Diocese
Pittsburgh, Pa.

The Holy Bishops' Council of the Serbian Orthodox Church at its session, under the No. AS 42/zap. 2, of July 27th, 1963, have decided:

"The Holy Bishops' Council of the Serbian Orthodox Church have decided that Bishop Dionisije Milivojevich violated his bishop's oath and lost the conditions for the position of the diocesan bishop, according to Art. 104, paragraphs A and G, of the Constitution of the Serbian Orthodox Church and in accordance of the Art. 111, of the Constitution of the Serbian Orthodox Church has been discharged from his duty as a diocesan bishop, and the Middle-West American Diocese is proclaimed as vacant".

You are informed about above mentioned for acknowledgment.

(Seal) SERBIAN PATRIARCH
+ GERMAN

P.S. The above document is notarized by American Consul at Belgrade, on July 29th, 1963, number: 2788497.

EXHIBIT C

JUDGMENT

OF THE HOLY EPISCOPAL COUNCIL OF THE SERBIAN ORTHODOX CHURCH, WITHIN WHOSE JURISDICTION IT IS TO JUDGE THE OFFENSES OF BISHOP DIONISIJE MILIVOJEVICH, WHO IS INDICTED BY VASILIJE, BISHOP OF ZICA, IN HIS OFFICIAL CAPACITY AS THE PROSECUTOR OF THE SERBIAN ORTHODOX CHURCH

THE FOLLOWING SAT IN JUDGMENT:

GERMAN, Serbian Patriarch, Presiding

MEMBERS:

Damaskin, Metropolitan of Zagreb
Nektarije, Metropolitan of Dabro-Bosnia
Danilo, Metropolitan of Montenegro and the Coastal Region
Emilijan, Bishop of Timok
Jovan, Bishop of Nis
Valerijan, Bishop of Sumadija
Makarije, Bishop of Srem
Nikanor, Bishop of Backa
Vasilije, Bishop of Zica
Hrizostom, Bishop of Branicevo
Visarion, Bishop of Banat
Emilijan, Bishop of Slavonia
Longin, Bishop of Zvornik-Tuzla
Simeo, Bishop of Gornji Karlovac
Vladislav, Bishop of Zahum-Hercegovina
Pavle, Bishop of Ras-Prizren
Andrej, Bishop of Banja Luka
Stefan, Bishop of Dalmatia
Jovan, Bishop of Sabac-Valjevo

I

The prosecutor of the Serbian Orthodox Church, with his indictment of October 16th, 1963, together with a supplement to the indictment, of March 5th, 1964, indicted Bishop Dionisije Milivojevich for the following ecclesiastical-canonical transgressions:

For breaking his episcopal oath and for refusing to submit to the decisions of the highest Church authorities—the Holy Episcopal Council and Synod of the Serbian Orthodox Church;

For his refusal to participate orally and directly in an investigation before the Investigating Committee of the Holy Episcopal Synod, concerning the charges submitted against him;

For officiating in Church ceremonies and for performing the duties of diocesan bishop after having been indicted and suspended from the performance of Church ceremonies, and relieved of the duties of diocesan bishop;

For accepting clerics who had no canonical release, as well as persons who were under suspension from the performance of Church ceremonies, and for entrusting them with parochial duties;

For committing wrong-doings of a material nature and for conducting himself in a manner unbecoming priestly rank and position;

For ordaining and bestowing ecclesiastical ranks of honor on such persons who, according to the canons, do not possess the necessary qualifications for ordination; and

For proclaiming the Serbian Orthodox Diocese of America and Canada fully autonomous and separating it from the mother, Serbian Orthodox Church, at the so-called

"Church National Assembly," held November 13th and 14th, 1963.

For these offenses, the prosecutor for the Serbian Orthodox Church asked that Bishop Dionisije Milivojevich be divested of both his episcopal and monastic ranks.

II

Upon hearing the indictment of the prosecutor for the Serbian Orthodox Church, submitted against Bishop Dionisije Milivojevich, and upon study of all documents related to this criminal case, and upon completion of the presentation of evidence—on the basis of Clause 6 of the II Ecumenical Council; Clauses 14 and 15 of the Antiochian Council; Clause 12 of the Council of Carthage; Articles 7 and 69, Points 27/B and 214a, Points 1, 2, 3, and 6 of the Constitution of the Serbian Orthodox Church and paragraphs 1, 2, 9, and 12 of the Constitution of the Serbian Orthodox Diocese of the United States of America and Canada, the Holy Episcopal Council of the Serbian Orthodox Church, as the judicial organ—

ADJUDGES

Bishop Dionisije Milivojevich of Libertyville, U.S.A., born on July 13/26 at Rabrovac, near Palanka of Smederevo, Yugoslavia; elected bishop on June 9/22, 1938; consecrated August 8/21, 1938; appointed by the decree of the Holy Episcopal Council of the Serbian Orthodox Church, EC No. 218/Min. 81 of December 8th, 1939, as the Bishop of the Serbian Orthodox Diocese of America and Canada, with no previous conviction, be punished *by divestiture of his episcopal and monastic ranks* (Article 216, Points 8 and 10 of the Constitution of the Serbian Orthodox Church),

and be removed from the roll of the hierarchy of the Serbian Orthodox Church, and be returned to the status of layman, under his secular name, Dragoljub Milivojevich, in consequence of his committed offenses:

a. Conduct unbecoming to the clerical rank and position, (42 Apostolic Canon; Constitution of the Serbian Orthodox Church, Article 214, Point 2; Regulations and procedures for the Ecclesiastical Courts of the Serbian Orthodox Church (Criminal Code), Articles 22, 25, and 29).

b. Non-performance, that is to say, negligent performance of official priestly duties and legal ordinances of the superior ecclesiastical authorities, discussion and criticism of their orders and procedures.

(Apostolic Canon 74; Constitution of the Serbian Orthodox Church, Article 214, Points 3 and 6, and Regulations and Procedures for the Ecclesiastical Court of the Serbian Orthodox Church (Criminal Code), Article 30, Points 9, 32, and 38).

and *c. Against the established order of the Church and for schism.*

(Apostolic Canons, 25, 34, 35, and 74; Council of Trulo, 17; Constitution of the Serbian Orthodox Church, Article 214, Point 1; Regulations and Procedures for the Ecclesiastical Court of the Serbian Orthodox Church (Criminal Code), Article 10, 15, 17, 18, and 45).

IX

The Holy Episcopal Synod of the Serbian Orthodox Church, by its Act of the 25th of February, 1964, Syn. No. 357/Min. 78, informed the Holy Episcopal Council of

the Serbian Orthodox Church, that regarding the confirmed gravity of the offenses committed by Bishop Dionisije Milivojevich, it considers itself as having exhausted its authority as provided in Article 70, Point 35, of the Constitution of the Serbian Orthodox Church. Therefore, it brings the entire criminal case of the indicted Bishop Dionisije before the Holy Episcopal Council with the recommendation that the Holy Episcopal Council bring forth a final judgment on it on the basis of Clause 6 of the Second Ecumenical Council; Clauses 14 and 15 of the Council of Antioch; Clause 12 of the Council of Carthage; Articles 7 and 69; Point 27/B of the Constitution of the Serbian Orthodox Church. The proce[illegible]e for judgment of a bishop is not sufficiently explained in our positive Church legislation, and this procedure is sufficiently expounded in the canons of the Orthodox Church cited above.

The Holy Episcopal Council accepted this recommendation of the Holy Episcopal Synod, and on the basis of Clause 6 of the Second Ecumenical Council; Clauses 14 and 15 of the Council of Antioch; Clause 12 of the Council of Carthage, and Articles 7 and 69, Point 27/B of the Constitution of the Serbian Orthodox Church, as the ecclesiastical organ, pronounced the final judgment concerning the offenses of Bishop Dionisije, as stated in the body of the judgment.

X

Being that this judgment was pronounced unanimously by all the members of the Holy Episcopal Council of the Serbian Orthodox Church, therefore, according to the 15th Clause of the Council of Antioch, it is final, and there is no appeal.

FROM THE MEETING OF THE HOLY EPISCOPAL COUNCIL OF THE SERBIAN ORTHODOX CHURCH, on the 15th of March, 1964, in Belgrade, EC No. 1/Min. 38.

SEAL

PRESIDENT
Holy Episcopal Council
SERBIAN PATRIARCH
GERMAN

MEMBERS:

Damaskin, Metropolitan of Zagreb
Nektarije, Metropolitan of Dabro-Bosnia
Danilo, Metropolitan of Montenegro and the Costal Region
Emilijan, Bishop of Timok
Jovan, Bishop of Nis
Valerijan, Bishop of Sumadija
Makarije, Bishop of Srem
Nikanor, Bishop of Backa
Vasilije, Bishop of Zica
Hrizostom, Bishop of Banat
Emilijan, Bishop of Slavonia
Longin, Bishop of Zvornik-Tuzla
Simeon, Bishop of Gornji Karlovac
Vladislav, Bishop of Zahum-Hercegovina
Pavle, Bishop of Ras-Prizren
Andrej, Bishop of Banja Luka
Stefan, Bishop of Dalmatia
Jovan, Bishop of Sabac-Valjevo

EXHIBIT D

The Holy Episcopal Synod of the
Serbian Orthodox Church
No. 1725/zap. 237
May 17, 1963
Belgrade

To The Very Reverend Archimandrite
Dr. Firmilian Ocokoljich, Administrator
of the Mid-Western American Diocese
Pittsburgh

The Holy Episcopal Council of the Serbian Orthodox Church, in its meeting of May 10, 1963, under AS No. 20 and 21/zap. 77 brought this decision:

"On the request of the Church National Convention of the American-Canadian Diocese and the American-Canadian Bishop No. 115 of February 13, 1962 and No. 127 of May 25, 1962 that due to the magnitude and expanse of this Diocese it is necessary to elect more bishops for this ecclesiastical jurisdiction, the Holy Episcopal Council, in accordance with Article 16 Constitution of the Serbian Orthodox Church, establishes in place of the present American-Canadian Diocese three Dioceses, namely:

1. *Middle Western American* Diocese, with its See in the Monastery of St. Sava in Libertyville, upon which His Grace Bishop Dionisije remains further.

2. *Western American* Diocese with its See in Los Angeles, and

3. *Middle Eastern American-Canadian* Diocese with its See in Detroit.

Having formerly obtained the consent of His Holiness The Serbian Patriarch German, South Africa is added to the *Middle-Western American* Diocese, while the parishes in Central and South America are added to the *Western-American* Diocese, which were up to now, in accordance with Article 55, section 12 Constitution of the Serbian Orthodox Church, under the direct jurisdiction of His Holiness the Patriarch.

The border between the Middle-Western American Diocese and the Western-American Diocese will run along the 95th Meridian for the present.

The parishes in Michigan, New York, Pennsylvania and Canada shall belong to the Middle-Eastern American-Canadian Diocese.

As soon as Bishops are appointed to the newly established dioceses other necessary organs and bodies shall be organized.

The final boundaries of the newly-established dioceses, revision of the existing Church Constitution for this territory in conformity with the newly created situation and all other questions relative to the ecclesiastical organization of these dioceses shall be studied by the Church National Convention with the Bishops in charge, and their motions submitted for final decision to the Holy Episcopal Council."

Relative to the decision of the Holy Episcopal Synod under the above number and date, you are hereby notified of the above.

With blessings,

For the President of the
Holy Episcopal Synod
Member, Bishop of Timok
(Signed) EMILIJAN

The Holy Episcopal Synod of the
Serbian Orthodox Church

No. 1726/zap. 238

May 17, 1963

Belgrade

To the Very Reverend Archimandrite
Dr. Firmilian Ocokoljich
Pittsburgh

The Holy Episcopal Synod in its meeting under the above number and date brought this decision:

"Executing the decision of the Holy Episcopal Council AS No. 20 and 21/zap. 77 of May 10, 1963 concerning the founding of new dioceses in the United States of America, and the decision of the Holy Episcopal Synod Sin. No. 1664/zap. 188 of May 10, 1963 concerning the arraignment and suspension from priestly functions and diocesan government of His Grace Bishop Dionisije the Holy Episcopal Synod on the basis of Article 70, section 21 of the Constitution of the Serbian Orthodox Church and Article 13, Constitution of the Serbian Orthodox Diocese in the United States of America and Canada, appoints as temporary administrators:

1. For the Mid-Western American Diocese the Very Reverend Archimandrite Dr. Firmilian Ocokoljich, pastor of the Serbian Orthodox Church in Pittsburgh;

2. For the Western American Diocese the Very Reverend Archimandrite Gregory Udicki, pastor of the Serbian Orthodox Church in Youngwood;

3. For the Mid-Eastern American-Canadian Diocese the Very Reverend Proto-presbyter Stevan Lastavica, pastor of the Serbian Orthodox Church in Windsor, Canada."

You are informed of the above decision of the Holy Episcopal Synod so that you may take notice of the same, and in accordance with said decision relieve His Grace Bishop Dionisije and take charge of the Mid-Western American Diocese till further notice, informing the Holy Episcopal Synod of your action.

For the President of the
Holy Episcopal Synod
Member, Bishop of Sumadija

(Signed) VALERIJAN

IN THE CIRCUIT COURT OF THE
19TH JUDICIAL DISTRICT OF ILLINOIS

(Title Omitted in Printing)

INTERIM OPINION

This cause has been remanded to us as the trial court as a result of an extensive and detailed decision of our Second District Appellate Court reported in 72 Ill. App. 2d 444. In Case Number 63-1644 the Plaintiffs may be referred to as the Bishop of "Dionisije" Group and the Defendants as the "Firmilian" Group; while in Case Number 63-2312 the Plaintiffs will be referred to as the "Firmilian" Group and the Defendants as the "Dionisije" Group. Since the remandment of these cases by the Appellate Court, the Firmilian Group have filed their "Second Amended and Supplemental Complaint" to which the Dionisije Group have filed their "Motion to Dismiss" the

same in its entirety and also specifically as to each of its several and separate four counts.

The Dionisije Group has also filed its separate "Motion to Dismiss" on April 27, 1967 as to 18 individual defendants which said Second Amended and Supplemental Complaint alleges that, upon information and belief, they purport to be members of the Executive Board of the religious corporation, or members of the Board of Directors of the not-for-profit corporation, or purport to act in both capacities. These individuals are named in the preamble to Count I at the top of page 2 of said complaint and commerce with the name Iriney and end with the name Popovich, and the allegation concerning their interest in Count I and in the lawsuit is set forth in Paragraph 7 on page 3 of said complaint. We believe, and so rule, that the two Illinois Corporations so referred to and which are also and will remain as parties to this suit are competent and sufficient defendants and that said 18 defendants shall be dismissed. It is our opinion that all issues raised between the Plaintiffs and said Corporations will be binding upon said 18 defendants now being *dismissed from the case.*

As to *Count I:* The Motion to Dismiss is denied in all other aspects except as above indicated concerning said 18 individual defendants. In our opinion the Plaintiff, "The Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious body," as a hierarchically organized religious body, does have judicial standing and capacity to use in an equity proceeding. As stated in said Appellate Court decision:

> "[2] It is within the framework of these organizational laws that this dispute must be resolved. The The protection of the law extends to religious associations the same as to other voluntary associations of

benevolent or charitable purposes. The rights of property or other civil rights of such associations are equally under the protection of law, and the actions of their members, subject to its restraints." (Page 455)

"Consequently, it was not our intent to prejudge what might be presented to the trial court on remandment in an orderly and complete hearing of these consolidated cases on their merits. If, upon proper pleadings, competent testimony and other valid evidence, the appellees can present a case which would warrant and justify the trial court—a civil court—in not accepting a pertinent eccesiastical decision or decisions, we do not mean to be understood to preclude them from doing so. Our purpose in remanding the case is to afford all of the litigants a complete and full hearing on the merits pertaining to the many issues and questions involved. The factual background of this case is indeed significant, but it is not without dispute, as is evidenced by the numerous conflicting representations made to the court through extensive pleadings, depositions, affidavits, and briefs." (Pages 464-5)

Consequently, the Motion to Dismiss Count I of said complaint is denied as above indicated.

As to *Count II:* We do not decide the Motion to Dismiss on Defendants' theory of "lack of legal capacity to sue" on the part of the three new Dioceses. We again refer to our Appellate Court decision as follows:

> "From the views we have expressed herein, the Serbian Orthodox Church has authority to make the ecclesiastical decisions relative to the removal and ap-

pointment of a Bishop for the Serbian Eastern Orthodox Diocese for the United States of America and Canada, as well as the appointment of a temporary administrator. It exceeded its authority, however, and infringed upon the authority of the Diocese when it purported to change the geographical structure of the Diocese and eliminate its reserved administrative powers, including the control over Church properties, subject to the trust imposed thereon, by dissolving the Diocese and creating three new Dioceses." (Page 462)

"This is all quite true and, as pointed out in the opinion, the Serbian Orthodox Church exceeded its authority in these respects. It was without authority to disband the American-Canadian Diocese, and it follows that the purported appointments of temporary administrators and Bishops of these supposedly new Dioceses were without validity." (Page 463)

In our opinion, from a careful reading of the decision of our Appellate Court above referred to, these three newly created Dioceses have no interest in this litigation and should be stricken as parties-plaintiff therefrom. They are: The Middle Western American Diocese of the Serbian Orthodox Church, The Western American Diocese of the Serbian Orthodox Church, The Middle Eastern American-Canadian Diocese of the Serbian Orthodox Church. Consequently, in our view, Count II should be and is stricken in its entirety and the Motion to Dismiss to that extent is granted.

As to *Count III:* It is our opinion that the Motion to Dismiss should be denied and therefore Count III will stand. We believe that upon trial of the case, the Court will soon discover if the charges made in Count III have any merit or are merely "moot" as claimed by the defendants.

As to *Count IV:* It is our decision that this Count is vulnerable to the Motion to Dismiss for the same reasons as we have above expressed concerning Count II; and therefore, the motion is granted and Count IV is stricken.

We suggest that Counsel for Defendants (the Dionisije Group) draft a suitable order in conformity with this opinion, granting leave to them to plead within a reasonable time.

DATED: August 29, A.D. 1967

L. Eric Carey
Judge

IN THE CIRCUIT COURT OF THE
19TH JUDICIAL DISTRICT OF ILLINOIS

(Title Omitted in Printing)

ORDER

Filed Sept. 11, 1967

This cause coming on for further hearing on the Court's Interim Opinion Re: Motion to Dismiss Second Amended and Supplemental Complaint, the Court Finds as follows:

1. The Motion filed April 27, 1967 by 18 individual Defendants to dismiss the Second Amended and Supplemental Complaint filed February 27, 1967, should be allowed.

It is, therefore, ordered that as to Right Reverend Bishop Iriney, Nikola Stepanovich, Svetozar Maravich, Uros Seferovich, Todor Polich, Nikola Sever, Robert Vujovich, Milutin Djordjevich, Nikola Cabraja, Bob Lagather, Milutin Bajcetich, Milan Tomich, Mitar Bulatovich, Nikola Kraguljac, Mike Radakovich, Steve Balach, Dragoljub Mitich and Voja Popovich, the Second Amended and Supplemental Complaint, filed February 27, 1967, is Dismissed.

2. The Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious body, as a hierarchically organized religious body, has judicial standing and capacity to sue in an equity proceeding, and, therefore, the Motion to Dismiss Count I of the Second Amended and Supplemental Complaint filed herein on February 27, 1967 should be denied.

It is, therefore, Ordered that the Motion of Right Reverend Bishop Dionisije Milivojevich, The Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, and The Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, to dismiss Count I of the Second Amended and Supplemental Complaint be and the same is hereby Denied.

3. The three newly-created Dioceses have no interest in this litigation; they should be stricken as parties-Plaintiff, and Count II should be stricken.

It Is, Therefore, Ordered that the Middle Western American Diocese of the Serbian Orthodox Church, the Western American Diocese of the Serbian Orthodox Church, and the Middle Eastern American-Canadian Diocese of the Serbian Orthodox Church have no interest in this litigation and they are hereby stricken as parties-Plaintiff to the Second Amended and Supplemental Complaint.

4. The Motion to Dismiss Count III should be denied.

It Is, Therefore, Ordered that the Motion to Dismiss Count III of the Second Amended and Supplemental Complaint be and it is hereby Denied.

5. The three newly-created Dioceses have no interest in this litigation; they should be stricken as parties-Plaintiff, and Count IV should be stricken.

It Is, Therefore, Ordered that the Middle Western American Diocese of the Serbian Orthodox Church, the Western American Diocese of the Serbian Orthodox Church, and the Middle Eastern American-Canadian Diocese of the Serbian Orthodox Church have no interest in this litigation and they are hereby stricken as parties-Plaintiff to the Second Amended and Supplemental Complaint.

It Is Further Ordered Right Reverend Bishop Dionisije Milivojevich, The Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, and The Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, be and they are hereby granted to and including October 31, 1967 in which to plead to Counts I and III of the Second Amended and Supplemental Complaint.

It Is Hereby Further Ordered that the Interim Opinion Re: Motion To Dismiss Second Amended and Supplemental Complaint, delivered by this Court on August 29, A.D., 1967, be filed and made a part of the record in this cause.

Enter this 11th day of September, 1967.

L. Eric Carey
Judge

The above Order is approved as to Form only.

John J. Crown
John J. Crown

Gerald C. Snyder
Gerald C. Snyder

IN THE CIRCUIT COURT OF THE
19TH JUDICIAL DISTRICT OF ILLINOIS

(Title Omitted in Printing)

ANSWER TO SECOND AMENDED AND SUPPLEMENTAL COMPLAINT

Now come Right Reverend Bishop Dionisije Milivojevich, the Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, and The Serbian Eastern Orthodox Diocese For The United States of America and Canada, an Illinois religious corporation, pursuant to the Order of September 11, 1967, and without waiving those matters and things set forth in their Motion to Dismiss Counts I and III of the Second Amended and Supplemental Complaint, the Suggestions in Support and the supporting briefs filed with the Court, and specifically reserving the same, answering say:

ANSWER TO COUNT I

1. They deny the allegations alleged and set forth in the first paragraph and demand strict proof of the same.

2. They admit that the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, was duly incorporated under the laws of the State of Illinois, and state the fact to be American citizens of Serbian descent, prior to 1900, established an informal association for religious purposes, thereafter became associated with the Russian Orthodox Church, and following the first World War and the takeover of Russia by Communists, and when the Kingdom of Yugoslavia had brought the Serbian people together, formed the Serbian Eastern Orthodox Diocese Council for United States and Canada, an Illinois corporation in 1927, which corporation

was succeeded by the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation in 1935.

3. They deny the allegations alleged and set forth in paragraph 3, and, on the contrary, state the fact to be that there is no Diocese other than the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation.

4. They deny the allegations alleged and set forth in the fourth paragraph, and demand strict proof of the same.

5. They admit that Right Reverend Bishop Dionisije Milivojevich resides in the County of Lake and State of Illinois, but deny the other allegations alleged and set forth in the fifth paragraph and demand strict proof of the same, and state that he is the Bishop of the Diocese and the presiding officer of the religious corporation.

6. They admit that The Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, was organized in 1945, exists under the laws of the State of Illinois, and has its principal office in the County of Lake, State of Illinois.

7. No answer is made to paragraph 7, as the Court, by its Order of September 11, 1967 dismissed the Second Amended and Supplemental Complaint filed February 27, 1967 as to those persons named in paragraph 7.

8. They deny the allegations alleged and set forth in the eighth paragraph of the Complaint, demand strict proof of the same, and, on the contrary, state that the relationship of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, to the Serbian Orthodox Church, is contrac-

tually established by the Constitution of the religious corporation, which was approved by the Serbian Orthodox Church, whose principal See is in Belgrade, Yugoslavia.

9, 10, 11, 12, 13 and 14. They deny each, all and every one of the allegations and conclusions alleged and set forth in paragraphs 9, 10, 11, 12, 13 and 14, and demand strict proof of the same.

15. They admit that the Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, and The Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, hold title to various properties, both real and personal, in trust for members and beneficiaries of said two corporations, and deny that the Serbian Orthodox Church, whose principal See is in Belgrade, Yugoslavia, or anyone acting by or through it, has any interest, legal or equitable, in such property.

16. They deny the allegations alleged and set forth in paragraph 16, and demand strict proof of the same.

17. They admit that the Plaintiff Firmilian Ocokoljich has, on numerous occasions since May 21, 1963, demanded the assets, including all cash and bank accounts of the two Illinois corporations, and all books and records of said two corporations, but deny the other allegations and conclusions alleged and set forth in the 17th paragraph, and demand strict proof of the same.

18. They admit that they refused to comply with the unconstitutional, illegal and unwarranted attempt to divide the Diocese into three parts, and to appropriate its bank account, money and assets, but deny that at any time they have failed to recognize the trust impressed upon the assets of the two corporations, deny all other allegations

alleged and set forth in the 18th paragraph of the Complaint, and demand strict proof of the same.

19, 20, 21. No answer is made to paragraphs 19, 20 and 21, as the Court, by its Order of September 11, 1967, dismissed the Second Amended and Supplemental Complaint filed February 27, 1967, as to those persons named in paragraphs 19, 20 and 21.

WHEREFORE, these Defendants say that the Plaintiffs are not entitled to the relief, or any part of the relief, demanded in Count I.

ANSWER TO COUNT III

1, 2, 3, 4. They deny the allegations alleged and set forth in the 1st, 2nd, 3rd and 4th paragraphs, and demand strict proof of the same.

5. They adopt their answer to paragraph 2 of Count I as and for their answer to paragraph 5 of Count III as fully as though the same were set forth hereunder.

6. They adopt their answer to paragraph 6 of Count I as and for their answer to paragraph 6 of Count III as fully as though the same were set forth hereunder.

7. They adopt their answer to paragraph 5 of Count I as and for their answer to paragraph 7 of Count III as fully as though the same were set forth hereunder.

8. They admit that Right Reverend Bishop Dionisije was duly and regularly appointed Bishop of the Diocese, and state the fact to be that his Grammata was received through the King of the Kingdom of Yugoslavia prior to the communistic takeover of that Kingdom; said Grammata was received from the State Church of the Kingdom of

Yugoslavia prior to the communistic domination of that Church; he has at all time and times since his acceptance in 1940 by the governing board of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation been, and now remains, the presiding officer of the religious corporation, and since the incorporation of the not-for-profit corporation, and his acceptance by the Diocesan Council, by the Diocesan Church Court, and by the Diocesan Convention became and now remains the supreme head of the monastery.

9. They admit the allegations alleged and set forth in the 9th paragraph.

10-23. They adopt their answers to the allegations contained in paragraphs 7 through 20 of Count I as and for their answers to paragraphs 10 through 23 of Count III as fully as though the same were set forth hereunder.

24. They deny each, all and every one of the allegations alleged and set forth in paragraph 24, and demand strict proof of the same.

WHEREFORE, they deny that the Plaintiffs are entitled to the relief, or any part of the relief demanded in Count III.

SNYDER, CLARKE, DALZIEL,
HOLMQUIST & JOHNSON
By: *Gerald C. Snyder*

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT, LAKE COUNTY, ILLINOIS

(Title Omitted in Printing)

COUNTERCLAIM

Now comes the Right Reverend Bishop Dionisije Milivojevich, Plaintiff in this Counterclaim, and complains of the Counter Defendant, Firmilian Ocokoljich, as follows:

1. The Counter Plaintiff, the Right Reverend Dionisije Milivojevich, hereinafter referred to as "Bishop Dionisije," is a duly-consecrated and ordained Bishop, having been so decreed by King Paul of the Kingdom of Yugoslavia on August 21, 1938.

2. That in January, 1940, Bishop Dionisije was confirmed as Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada by King Paul of the Kingdom of Yugosalvia.

3. That thereafter, in April, 1940, Bishop Dionisije was received and accepted as a Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada by the Diocesan Board, upon their secret ballot, and he undertook to perform the duties as Diocesan Bishop and President of the Diocesan Council and Diocesan Assembly of the Illinois religious corporation.

4. That thereafter the Kingdom of Yugoslavia was invaded and occupied by the Nazis during World War II.

5. That during this period of occupation, the Serbian Patriarchate was persecuted and imprisoned and the Patriarch was unable to act in any regard or manner.

6. That following World War II, the Communist army of Josef Broza—Tito—established its regime in Yugoslavia, persecuted the clergy and the Patriarchate, imprisoned the

Serbian Eastern Orthodox Church and exercised control and dominance over said church through its agents and Religious Affairs Committee.

7. That during these periods Bishop Dionisije distinguished himself as an anti-Nazi and an anti-Communist, speaking out and working diligently to thwart the ungodly plan of both of these regimes.

8. That upon the Communist overthrow of the Kingdom of Yugoslavia the Communist government compelled the Serbian Orthodox Church to adopt the Constitution of January 31, 1946 of the Serbian Orthodox Church, and in April, 1946, Metropolitan Joseph notified Bishop Dionisije that the Communist Ministery of Foreign Affairs had made charges against Bishop Dionisije because of his opposition to Communism, and the Communists were attempting to exploit the Holy Synod for their political aspirations; that the Serbian Orthodox Church was in a desperate situation; that everything was under strict supervision; and the greatest need was for freedom; all as will appear from the letter from Metropolitan Joseph, a true copy of which is attached hereto, marked "Exhibit A," now specifically referred to and by reference made a part of this Counterclaim.

9. That thereafter, bowing to Communist domination, Serbian Patriarchate Gabriel, in November, 1946, recommended to Bishop Dionisije that he cease and desist from his unrelenting and damaging attacks upon Communists and Communism, and to avoid participation in political disputes and daily political problems, and confine his activities to religious matters, as will more fully appear from the November, 1946 direction received from Serbian Patriarchate Gabriel, a true copy of which is attached hereto, marked "Exhibit B," now specifically referred to and by reference made a part of this Counterclaim.

10. That Bishop Dionisije, in addition to ministering to the religious needs of the members of the Diocese, continued to attack the ungodly actions of the Communists, the domination of the Serbian Orthodox Church, and the loss of religious freedom being suffered by the Clergy and the faithful in Yugoslavia.

11. That thereafter, and in October, 1954, Patriarch Vikentije advised Bishop Dionisije that the Holy Bishops' Council, on May 14, 1948, had requested him to restrain himself from every political action, from mixing in politics, and to limit his actions entirely to church work of the Serbian Orthodox Church, and on June 12, 1954, again recommended that he conduct himself accordingly, as will more fully appear from the letter of directions from Patriarch Vikentije, dated October 12, 1954, a true copy of which is marked "Exhibit C," attached hereto, now specifically referred to and by reference made a part of this Counterclaim.

12. That under Communist domination the Serbian Orthodox Church directed all Bishops outside of Yugoslavia, including Bishop Dionisije, to abstain from any political action and dealing with politics in general, but to limit their work with the clergy only in the sphere of action of the Serbian Eastern Orthodox Church, as will more fully appear from "Exhibit D," now specifically referred to and by reference made a part of this Counterclaim.

13. In December, 1961, Patriarch Gherman again asked Bishop Dionisije to cease promoting the religious freedom of the faithful in Yugoslavia because the church in Yugoslavia would get into difficulty with the Communist government, and Bishop Dionisije, on March 18, 1962, replied that in accordance with the Orthodox Church, supported by the full prayer of St. Sava, he fights against aetheistic-

dialectic materialistic philosophy introduced by Communists in Yugoslavia, all as will more fully appear in the letter of March 18, 1962, a true copy of which is attached hereto as "Exhibit E," now specifically referred to and by reference made a part of this Counterclaim.

14. That the Communist government of Yugoslavia, through its agents and Consuls, undertook to attack and destroy Bishop Dionisije because of his unrelenting and damaging attacks upon the Communist usurpers of Yugoslavia.

15. That in May, 1963, the Communist government of Yugoslavia, through the Patriarchate of the Serbian Eastern Orthodox Church, undertook to divide the Serbian Eastern Orthodox Diocese of the United States of America and Canada into three new Dioceses without authority or sanction in law, and in defiance of the Constitution of the Serbian Eastern Diocese of the United States of America and Canada.

16. That said acts of May 10, 1963, purporting to divide the Serbian Eastern Orthodox Diocese of the United States and Canada into three new Diocese are void and of no legal effect, and have been so adjudicated by Illinois Courts.

17. That there exists in the United States one Diocese —the Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious corporation— of which the Counter Plaintiff, Bishop Dionisije, is the duly-appointed, accepted and acting Bishop.

18. That the Counter Defendant, Firmilian, has made the following claims and accusations:

A. That he is the Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious corporation;

B. That he is entitled to the assets, including all cash and bank accounts, of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, and the Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, and all books and records of said two corporations;

C. That the Plaintiff, Bishop Dionisije, has been removed from his episcopal duties and relieved of his monastic orders and has been defrocked.

19. That the Counter Defendant further asserts and claims the foregoing on the basis of illegal, void, fraudulent, collusive, arbitrary and unconscionable action of his principal, the Serbian Patriarchate of Belgrade, Yugoslavia, of which he is an integral part, agent, co-principal and co-conspirator.

20. That the alleged acts of the Serbian Eastern Orthodox Patriarchate of Belgrade, Yugoslavia, purporting to remove Bishop Dionisije as Bishop of the Serbian Eastern Orthodox Diocese of the United States of America and Canada are null, void and of no legal force and effect because no full, fair, judicial hearing was had; Bishop Dionisije was not present or represented at the purported hearing; Bishop Dionisije was denied access to the charges against him and refused information of the person or persons making such charges; and the sole purpose of the fraudulent, collusive and arbitrary proceedings was to terminate the unrelenting and damaging attacks upon the Communist usurpers of Yugoslavia being conducted by Bishop Dionisije.

21. That the alleged acts of the Serbian Eastern Orthodox Patriarchate of Belgrade, Yugoslavia purporting to remove Bishop Dionisije of his episcopal duties and relieve

him of his monastic order and defrock him are null, void and of no legal force and effect because no full, fair judicial hearing was had; Bishop Dionisije was not present or represented at the purported hearings; Bishop Dionisije was denied access to the charges against him and refused information of the person or persons making such charges; and the sole purpose of the fraudulent, collusive and arbitrary proceedings was to terminate the unrelenting and damaging attacks upon the Communist usurpers of Yugoslavia being conducted by Bishop Dionisije, and the proceedings were dominated by the Communist government which controlled the Serbian Orthodox Church in Yugoslavia.

22. That the purported indictment and trial of His Grace, Bishop Dionisije, by the Serbian Patriarchate of Belgrade, Yugoslavia, is of no legal force and effect by reason of the matters and things hereinbefore alleged, and because such proceedings are void and illegal for failure of the said Serbian Patriarchate to apply and follow its own rules and regulations regarding such proceedings, as well as the customs and traditions of the Christian Orthodox Church, and the Canons of the Christian Orthodox Church.

23. The action of the Counter Defendant, Firmilian, his assertions and claims, causes irreparable injury and harm to the Counter Plaintiff, Bishop Dionisije, in that such allegations have held up the Counter Plaintiff to derision and insults, and interfered with the discharge of his duties as President of the Diocesan Council and Diocesan Assembly of the Illinois religious corporation, and without any cause defamed Bishop Dionisije, and such statements and actions are slander.

24. Counter Plaintiff has no adequate remedy at law.

25. A real justiciable controversy exists between the parties.

WHEREFORE, The Counter Plaintiff, the Right Reverend Dionisije Milivojevich, Bishop of the Serbian Eastern Orthodox Diocese of the United States of America and Canada, an Illinois religious corporation, prays that this Court enter a decree as follows:

1. That the Court enter a declaratory judgment that Counter Plaintiff, Bishop Dionisije, is the duly-appointed and acting Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, pursuant to the Constitution of the said Diocese.

2. That this Court enter a declaratory judgment that the Counter Defendant, Firmilian Ocokoljich, is not entitled to the assets, including all cash and bank accounts of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, and the Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, and all books and records of the said two corporations.

3. That this Court enter a declaratory judgment that the purported removal of Bishop Dionisije's episcopal rank and monastic orders is without validity, force and effect.

4. That this Court issue a permanent injunction restraining the Defendant, Firmilian Ocokoljich from holding himself out to be Bishop of the Serbian Eastern Orthodox Diocese of the United States of America and Canada, an Illinois religious corporation, and from promulgating and publishing any further slander regarding the illegal acts of the Serbian Patriarchate concerning the alleged and purported removal of episcopal duties and monastic rank of the said Bishop Dionisije by the Belgrade Patriarchate.

SNYDER, CLARKE, DALZIEL,
HOLMQUIST & JOHNSON
By: *Gerald C. Snyder*

EXHIBIT A

27/14 of April, 1946
Belgrade

Your Grace

Dear Bishop:

Recently the Holy Synod received through the Ministry of Foreign Affairs here, an accusation against you made by Rev. Gachinovich. Earlier there were others. The Holy Synod acted as it had to and sent this accusation to you for reply through the same office. We are sorry that some people exploit the Holy Synod for their political aspirations and placed us in a position to act on such matters.

We are in a desperate situation. . . . We are constantly praying and hoping in God's help. . . . We are in need of everything. We are impoverished. We do not have anything. We are desperate for many things, mostly for freedom. Everything here is under strict supervision, freedom also.

St. Sava is no longer commemorated or celebrated in the schools.

The communist opposition say to us, "You will pay for this, bearded ones" (since the Bishops do not cut their hair). We answer "You yourselves are to be blamed. We very gladly are paying even with our heads."

Metropolitan Joseph

EXHIBIT B

Holy Bishops' Synod
of the Serbian Orthodox Church
No. 3364/Min. 439
November 12/25, 1946
Belgrade

Your Grace:

In connection with the report of Your Grace from October 14, 1946, sent as an answer to the letter of the Holy Bishops' Synod of September 1/14, 1946, No. 2385/Min. 946, regarding complaints coming from abroad against your political action, the Holy Bishops' Synod has issued the following decision:

"Brotherly recommend to His Grace American-Canadian Bishop Dionisije that, in view of his dignity and position in the Serbian Orthodox Church outside of the homeland, to avoid participation in political disputes and daily political problems, but that his activity be confined to the mission of the Serbian Orthodox Church among the Orthodox Faithful which are living outside of their country."

Brotherly informing Your Grace of the above.

Your Grace's Brother in Christ,
Serbian Patriarch Gabriel

To: His Grace Bishop Dionisije of the Serbian
American and Canadian Diocese Orthodox

EXHIBIT C

The Holy Bishops' Synod
of the Serbian Orthodox Church
No. 1628/Min. 732
October 12, 1954 year
Belgrade—

Your Grace:

By its letter of No. 2033/Min. 503 from 4-VI-1948, the Holy Bishop's Synod sent to you the decision of the Holy Bishop's Council AC No. 26/Min. 10-8-43 from May 14, 1948, by which your Grace has been requested to restrain yourself from every political action and in general from mixing in the politics but that your work with your priests be limited only to the church work of the Serbian Orthodox Church.

In view of the above decision of the Holy Bishop's Synod under the above date and number, we again respectfully ask your Grace and recommend that in your future work to govern yourself along the line of the Holy Council of the Bishops.

Your Grace Brother in Christ
Patriarch Vikentije

His Grace Bishop of the
American-Canadian Diocese
Bishop Dionisije

EXHIBIT D

Ref. No. 2093/Min. 503
May 25/12, 1948, Belgrade

To:
His Grace Bishop American and Canadian
Bishop Dionisije
Libertyville

Your Grace,

Dealing in compliance with the Decision of the Saint Archbishops' Assembly, Ref. No. AC 26/Min. 10 and 43 of 14/1 May, 1948, the Saint Archbishops' Synod is honoured to present to your Grace the true text of the same reading as follows:

"The Holy Archbishops' Assembly, upon considering the Report given to the Saint Archbishops' Assembly by his Grace Bishop of Nis Jovan, in the name of the Delegation of the Saint Archbishops' Assembly who paid a visit to Secretary of State general-major Ljubodrag Djuric, ref. the above number and date, made the following Decision:

"The Holy Archbishops' Assembly has noted the Report so that it is to be given to the Holy Archbishops' Synod for further procedure."

At the same time "to recommend to the Holy Archbishops' Synod kindly to ask the members of the Holy Archbishops' Assembly (the Archbishops) abroad, to abstain from any political action and dealing with politics in general but to limit their work with the clergy only in the sphere of action of the Serbian Eastern Orthodox Church."

Your Grace brother in Christ,
for the President
of the Holy Archbishops' Synod
member, Bishop of Zletovo and
Strumica and administrator of
the Diocese of Srem

EXHIBIT E

THE HOLY BISHOPS' SYNOD
OF THE SERBIAN ORTHODOX CHURCH
Num. 3418/Min. 679
December 22, 1961
BELGRADE

YOUR GRACE,

The Holy Bishop's Assembly of the Serbian Orthodox Church under AS Num. 26/Min. 10 & 43 of May 14, 1948, issued a decision: "Recommend to the Holy Bishops' Synod to ask kindly, the Bishops, members of the Holy Bishops' Assembly, which are abroad, to restrain from every political action and of 'mixing into politics' in general, but to limit their work with clergy, only in framework of the Serbian Orthodox Church."

The Holy Bishop's Synod under its Number 2009/Min. 503 of May 25, 1948, notified Your Grace of this Assembly's decision.

With its letter Number 1628/Min. 732 of October 12, 1954, The Holy Bishop's Synod again kindly asked Your Grace to stay with the above decision of the Holy Bishops' Assembly. In Your answer to the above letter, under the Number 14 of December, 1954, Your Grace said: "This is to confirm receipt of Synod's letter, Number 1628/Min. 732 of October 12th of 1954, with our statement: that we will stick to the contents of the above decision and we will restrain ourselves from every political action and of 'mixing into politics' in general, as well as the clergy of this diocese, but let it be noted: we will keep our action in the

framework of the Serbian Orthodox Church, understanding, in the limits of the holy canons and of the Laws of this country in which our Diocese is organized."

Relative to Your newest clear political action The Holy Bishops' Synod, the third time, is kindly asking Your Grace to stay with the decision of Holy Bishops' Assembly and with Your promise, so that, by Your political action, our church in fatherland would not come in difficulty."

Your Grace in Christ—Brother

President of the Holy
Bishops' Synod
Serbian Patriarch GHERMAN.

IN THE CIRCUIT COURT
OF THE 19TH JUDICIAL DISTRICT OF ILLINOIS

(Title Omitted in Printing)

SECOND INTERIM OPINION RE: (A) MOTION BY DEFENDANTS TO DESIGNATE PARTIES; AND (B) MOTION BY PLAINTIFFS TO STRIKE DEFENDANTS' ANSWER AND COUNTERCLAIM.

A. MOTION BY DEFENDANTS TO DESIGNATE PARTIES:

On February 13, 1968, the Defendants filed the motion above mentioned and on February 23, 1968, the Plaintiffs filed their objections to said motion. The Court rules that in principle the Defendants' motion has practical application to this case and the use of simplified designations or phrases as applied to the various parties will be helpful. In so doing, the Court is not to be considered as ruling in any manner concerning the merits of the case and likewise the parties to this cause, by following this ruling of the Court, will not be considered as conceding in any way a position contrary to their respective pleadings. The Court rules that the following phrases shall be used by Court and Counsel:

1. The Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious body, shall be referred to as "the religious body in this country."

2. The Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, shall be referred to as the "Illinois religious corporation."

3. The Middle Western American Diocese of the Serbian Orthodox Church, The Western American Diocese of the Serbian Orthodox Church, and The Middle Eastern American Canadian Diocese of the Serbian Orthodox Church shall be referred to as the "three new dioceses."

4. The Serbian Orthodox Diocese of St. Sava, an Illinois not-for-profit corporation, shall be referred to as the "monastery corporation."

The proposed order concerning the foregoing is for the convenience of Court and Counsel. All concerned will be expected to conform, but it will be understandable should an infrequent and inadvertent lapse occur with reference to the foregoing designations in future documents in this cause.

B. MOTION BY PLAINTIFFS TO STRIKE DEFENDANTS' ANSWER AND COUNTERCLAIM:

On October 31, 1967, the Defendants filed their "Answer to Second Amended and Supplemental Complaint" answering Counts I and III and on page 5 of the same document their "counterclaim." On December 15, 1967, the Plaintiffs filed their motion to strike certain portions of Defendants' said answer and to strike said counterclaim, and attached thereto is a 32-page document entitled "Plaintiffs' Memorandum in Support of Their Motion." On January 31, 1968, the Defendants filed their 21-page "Responsive Memorandum" together with an exhibit attached thereto which responds to said Plaintiffs' Memorandum in support of their Motion. It is upon this state of the pleadings that this portion of the present opinion concerns itself.

The following numbers are the same paragraph numbers referred to in said answer of Defendants filed October 31, 1967:

COUNT I

1. Plaintiffs' motion to strike this paragraph is denied.
2. Plaintiffs' motion to strike a portion of this paragraph to the extent described in their motion is granted so that Paragraph 2 of the Answer will remain only as to the first three lines thereof, ending with the word "Illinois."
3. Plaintiffs' motion to strike this paragraph is denied.
4. Plaintiffs' motion to strike this paragraph is denied.
5. Plaintiffs' motion to strike this paragraph is granted only to the extent of the following words in the fourth line of said paragraph: "The Bishop of the Diocese and" but the remainder of the paragraph shall stand.
6. There is no controversy concerning this paragraph.
7. There is no controversy concerning this paragraph.
8. Plaintiffs' motion to strike this paragraph is denied.
9, 10, 11, 12, 13 & 14. Plaintiffs' motion to strike these paragraphs is granted. However, this is done without prejudice to any claim of the Defendant Dionisije Milivojevich as an officer or participant of either the "Religious Corporation" or the "Monastery Corporation."
15. Plaintiffs' motion to strike this paragraph is denied.
16. There is no controversy concerning this paragraph.
17. There is no controversy concerning this paragraph.

18. Plaintiffs' motion to strike this paragraph is denied.
19. There is no controversy concerning this paragraph.
20. & 21. The Court agrees with the Plaintiffs' motion that the Defendant Dionisije Milivojevich, as a remaining party to the cause, shall answer these paragraphs within a reasonable time.

COUNT III

1, 2, 3, & 4. There is no controversy concerning these paragraphs.
5. Same ruling as to Paragraph 2, Count I.
6. There is no controversy concerning this paragraph.
7. Same ruling as to Paragraph 5 of Count I.
8. The motion of the Plaintiffs is granted and this entire paragraph is stricken. We believe that this action is justified by legal authorities, particularly *Kedroff* v. *St. Nicholas Cathedral,* 344 U.S. 94, 73 S.Ct. 143, 97 L. Ed. 120 and *Kreshik* v. *Saint Nicholas Cathedral* (1960) 363 U.S. 190, 80 S.Ct. 1037.
9. There is no controversy concerning this paragraph.
10-23. Same ruling as to Paragraphs 7 through 20 of Count I.
24. There is no controversy concerning this paragraph.

COUNTERCLAIM

It is the judgment of this Court that the Counterclaim consists almost entirely of charges of Communistic control and activities in Yugoslavia and the effect thereof upon the church in Belgrade, and that this type of allegation di-

rectly or indirectly violates the Kedroff and Kreshik cases of the United States Supreme Court heretofore cited as well as our basic Appellate Court case in 72 Ill. App. 2d 444 (219 N.E. 2d 343). The foregoing criticism specifically applies to Paragraphs 4 through 14, inclusive, of said Counterclaim and the Court rules that the motion to strike those paragraphs is granted. The motion to strike any other portions of the Counterclaim is denied.

An order incorporating the foregoing rulings is requested at an early date.

Dated: June 17, 1968.

L. Eric Carey
Judge

Copies to:
John J. Crown, Esq.
Gerald C. Snyder, Esq.
Thomas J. Karacic, Esq.
Henry D. Fisher, Esq.

IN THE CIRCUIT COURT
OF THE 19TH JUDICIAL DISTRICT OF ILLINOIS
(Title Omitted in Printing)

ORDER

The Court having issued its Second Interim Opinion herein, which Opinion is ordered to be made a part of this record;

It Is Hereby Ordered that the following phrases shall be used by Court and Counsel in all proceedings herein, namely:

1. The Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious body, shall be referred to as "the religious body in this country."

2. The Serbian Eastern Orthodox Diocese for the United States of American and Canada, an Illinois religious corporation, shall be referred to as the "Illinois religious corporation."

3. The Middle Western American Diocese of the Serbian Orthodox Church, The Western American Diocese of the Serbian Orthodox Church, and The Middle Eastern American Canadian Diocese of the Serbian Orthodox Church shall be referred to as the "three new dioceses."

4. The Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, shall be referred to as the "monastery corporation."

It Is Further Ordered that the use of the foregoing phrases shall be without prejudice to the rights of any party hereto, and is solely for the convenience of Court and Counsel;

It Is Further Ordered that Plaintiffs' Motion to strike paragraphs 1, 3, 4, 8, 15 and 18 of Count I of the Answer is denied;

It Is Further Ordered that Plaintiffs' Motion to strike paragraph 2 of Count I of Defendants' Answer is granted except for that portion of paragraph 2 of the Answer which is admitted, i.e., ". . . that The Serbian Eastern Orthodox Diocese For The United States Of America And Canada, an Illinois religious corporation, was duly incorporated under the laws of the State of Illinois";

It Is Further Ordered that Plaintiffs' Motion to strike the words "the Bishop of the Diocese and," which appear in paragraph 5 of Defendants' Answer to Count I is granted, the balance of the paragraph 5 of Defendants' Answer to remain;

It Is Further Ordered that Plaintiffs' Motion to strike paragraphs 9, 10, 11, 12, 13 and 14 of Count I of Defendants' Answer is granted and Defendants are given to and including Monday, July 29, 1968, within which to plead to those paragraphs of Plaintiffs' Complaint.

It Is Further Ordered that Defendant Dionisije Milivojevich answer paragraphs 20 and 21 of Count I of Plaintiffs' Complaint on or before Monday, July 29, 1968;

It Is Further Ordered that Plaintiffs' Motion to strike paragraph 5 of Defendants' Answer to Count III of Plaintiffs' Complaint is granted except for that portion of said Answer which is admitted, i.e., ". . . that The Serbian Eastern Orthodox Diocese For The United States Of America And Canada, an Illinois religious corporation, was duly incorporated under the laws of the State of Illinois";

It Is Further Ordered that Plaintiffs' Motion to strike the words "the Bishop of the Diocese and," which appear in paragraph 7 of Defendants' Answer to Count III of Plaintiffs' Complaint is granted;

It Is Further Ordered that Plaintiffs' Motion to strike paragraphs 11, 18 and 21 of Count III of Defendants' Answer is denied;

It Is Further Ordered that Plaintiffs' Motion to strike paragraphs 8, 12, 13, 14, 15, 16 and 17 of Defendants' Answer to Count III is granted, and Defendants are given to and including Monday, July 29, 1968, within which to plead to those paragraphs;

It Is Further Ordered that Dionisije Milivojevich shall answer paragraph 23 of Count III of Plaintiffs' Complaint on or before Monday, July 29, 1968, and

It Is Further Ordered that Plaintiffs' Motion to strike paragraphs 4 through 14, both inclusive, of Defendants' Counterclaim should be, and hereby is, granted; Plaintiffs' Motion to strike the other portions of Defendants' Counterclaim should be, and hereby is, denied; and Plaintiffs are given to and including Monday, July 29, 1968, within which to answer or otherwise plead to those portions of Defendants' Counterclaim which have not been stricken.

It Is Further Ordered that Plaintiffs' Motion to Reconsider and strike Paragraph 15 and 16 and part of 21 of Defendants' Counterclaim be and the same is hereby denied.

Enter this 24th day of June, 1968.

L. Eric Carey
L. Eric Carey, Judge

IN THE CIRCUIT COURT
OF THE 19TH JUDICIAL DISTRICT OF ILLINOIS

(Title Omitted in Printing)

FUTHER ANSWER TO SECOND AMENDED AND SUPPLEMENTAL COMPLAINT

Now come Right Reverend Bishop Dionisije Milivojevich, The Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, and The Serbian Eastern Orthodox Diocese For The United States Of America And Canada, an Illinois religious corporation, pursuant to the Order based upon the second interim Opinion in this cause, and without waiving those matters and things set forth in their Motion to Dismiss Counts I and III of the Second Amended and Supplemental Complaint, the Suggestions in Support and the supporting briefs filed with the Court, and specifically reserving the same, answer as follows:

COUNT I

(Paragraphs 9, 10, 11, 12, 13, 14, 20 & 21)

Paragraph 9. The Defendants admit the allegations of Paragraph 9 and further state that the Holy Assembly of Bishops is only competent "within its jurisdiction" and, answering further, the Defendants state that the Serbian Eastern Orthodox Diocese of the United States of America and Canada, the "Illinois religious corporation," pursuant to its constitution, "enjoys full administrative freedom and accordingly it can independently regulate and rule the activities of its church, school and other diocesan institutions . . . in accordance with the laws of this constitution" (Article 3) and that the Diocesan Assembly "is the main legislative and controlling body of the diocese and represents the entire Orthodox Serbs of the United States of

America and Canada" (Article 15) all as more fully appears from the law of the case as announced by the Appellate Court in its prior decision in this cause on appeal.

Paragraph 10. The Defendants admit that the supreme executive body of the Serbian Orthodox Church acting within its jurisdiction is the Holy Episcopal Synod, and, answering further, state the fact to be that the relationship of the Illinois religious corporation to the Serbian Orthodox Church and Holy Episcopal Synod are regulated by the constitutions, customs and Canons of those two parties.

Paragraph 11. The Defendants, in answer to Paragraph 11 of the Complaint, state as follows:

A. The Defendants deny the existence of "the diocese" now known as "religious body in this country" and demand strict proof thereof, and

B. The Defendants deny that Bishop Dionisije was suspended as Bishop of the American-Canadian Diocese, now known as the "Illinois religious corporation," and

C. The Defendants deny that Exhibit A is a copy of the alleged decision and state the fact to be that Exhibit A appears to be a copy of a letter directed to Firmilian, Administrator of the Mid-Western American Diocese, which copy purports to relate the contents of a letter alleged to have been directed to Bishop Dionisije, and

D. The Defendants deny that Exhibit A is the best evidence of the alleged suspension and affirmatively state, in the alternative, that the alleged suspension was a nullity and a void act in violation of the Constitution, rules and regulations of the Serbian Orthodox Church and the Illinois religious corporation and the result of fraudulent, collusive and arbitrary acts.

Paragraph 12. The Defendants, in answer to Paragraph 12 of the Complaint, state as follows:

A. The Defendants deny that Firmilian was appointed temporary administrator of "the diocese" now known as "the religious body in this country," and

B. The Defendants deny the existence of "the religious body in this country" alleged in Count I of the Complaint, and

C. The Defendants deny that Exhibit A as a true and accurate copy of any decision of the Holy Episcopal Synod, and state that said exhibit purports to be a letter to Firmilian, Administrator of the Mid-Western American Diocese, which copy purports to relate the contents of a letter alleged to have been directed to Bishop Dionisije, and

D. The Defendants believe Firmilian was appointed temporary administrator of the Middle-Western American Diocese, and

E. The Holy Episcopal Synod lacked authority under the Constitution of the Serbian Orthodox Church, or the customs and traditions of the Serbian Orthodox Church, under the Constitution of the Illinois religious corporation, or the Holy Canons of the Orthodox Church to appoint any temporary administrator for the Illinois religious corporation, and

F. The alleged act of appointing Firmilian as temporary administrator of the Illinois religious corporation was a null and void act fraught with fraud, collusion and arbitrariness and in violation of the Constitution and laws of the respective parties as well as the customs, traditions and Canons of the Orthodox Church.

Paragraph 13. The Defendants, in answer to Paragraph 13 of the Complaint, state as follows:

A. The Defendants deny that the Holy Assembly of Bishops legally and validly removed the Defendant, Bishop Dionisije, as Bishop of the Middle-Western American Diocese for the United States of America and Canada as the creation of said Diocese was in excess of the jurisdiction and authority of the Holy Bishops' Council and was a null and void act, and

B. The Defendants deny that Exhibit B is a true and correct copy of the alleged decision and state that Exhibit B purports to be a copy of a letter to Firmilian, newly elected Bishop of the Middle-Western American Diocese, and said Exhibit B is not the best evidence of the decision of the Holy Assembly of Bishops, and

C. The Defendants deny that Bishop Dionisije was ever a Bishop or Administrator of the Middle-Western American Diocese as alleged in the Complaint, and

D. The Defendants state that the alleged and pretended removal was unlawful, null and void; the alleged decision was tainted with fraud, collusion and arbitrariness and was in violation of the laws of the Serbian Orthodox Church, its customs, traditions and the Canons of the Orthodox faith.

Paragraph 14. The Defendants, in answer to Paragraph 14 of the Complaint, state as follows:

A. The Defendants deny the allegation that the Holy Assembly of Bishops legally or lawfully divested Bishop Dionisije of his Episcopal and Monastic rank, and

B. The Defendants lack sufficient knowledge, information or belief to either admit or deny whether or not Exhibit C is a true and correct translation of the alleged decision, and demand strict proof thereof, and

C. The alleged decision is the result of an illegal, void and fraudulent proceeding based upon false and unreliable accusers unknown to Bishop Dionisije, and

D. Bishop Dionisije was denied any hearing and denied elementary fairness and an impartial hearing, and

E. Bishop Dionisije was denied access to copies of the alleged accusations against him and was denied adequate time or an extension of time in which to prepare a reply, and

F. Unauthorized persons or parties were allowed to participate in the deliberations, and

G. The pretended adjudication is based upon charges against Bishop Dionisije which were kept secret from him; the alleged indictment was amended and additional charges were made thereunder, copies of which were never served upon Bishop Dionisije at the time of the alleged proceedings, or thereafter, and

H. The alleged charges known to Bishop Dionisije were vague and indefinite, and

I. The prosecutors participated in the deliberations of the Holy Assembly of Bishops in violation of church law of the Serbian-Orthodox Church, and

J. That testimony and evidence was gathered in secret sessions out of the presence of the accused by parties unknown to Bishop Dionisije, and

K. The Holy Assembly of Bishops lacked jurisdiction as a court of first instance to pass on the alleged accusations, and

L. The alleged proceedings are violative of the Constitution of the Serbian Orthodox Church, the customs and traditions of the Orthodox faith, and the Canon law of the Orthodox faith.

M. That the alleged decision is the result of fraud, collusion and arbitrariness on the part of members of the Serbian Patriarchate, and

N. That the deliberations of members of the Serbian Patriarchate and the Assembly of Holy Bishops were influenced by members of the communist government of the Republic of Yugoslavia, and

O. The pretended adjudication is based upon hearsay, lies, scandalous suppositions and is unsupported by any competent, reliable or probative evidence.

Paragraph 20. Now comes the Defendant, Bishop Dionisije, pursuant to the Order of this Honorable Court and in answer to Paragraph 20 of the Complaint, states as follows:

A. He admits that on the dates therein set forth Church National Assemblies of the Illinois religious corporation, a/k/ Sabors, were convened pursuant to the provisions of the Constitution of the Illinois religious corporation in which the Plaintiff, Firmilian, participated and acquiesced, and

B. He states that such Sabors were called by the Diocesan Plenum and Diocesan Council in the manner prescribed by the Constitution of the Illinois religious corporation, and

C. He denies that said assemblies were convened without warrant in law and denies that the actions taken at these assemblies required any approval of the Holy Assembly of Bishops, and

D. He states that the Supreme Court Authority of the Illinois religious corporation is the Church National As-

sembly, (Sabor), pursuant to the Constition of said diocese, all as more fully appears from the findings of the Appellate Court in this cause on appeal, and

E. He lacks sufficient knowledge, information or belief, to determine which "actions" of these assemblies the plaintiffs complain, and thus is unable to answer further.

Paragraph 21. Now comes the Defendant, Bishop Dionisije, pursuant to the Order of this Honorable Court, and in answer to Paragraph 21 of the Complaint states as follows:

A. He denies that "the diocese," now known as "the religious body in this country" exists independent of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, now known as the "Illinois religious corporation," and

B. Denies that the alleged "religious body in this country" has suffered any irreparable damage as an alleged "external organization of members of a hierarchically organized religion," and

C. Denies that the alleged "religious body in this country" has any interest in the assets of the "Illinois religious corporation," and

D. Denies that any assets of the "Illinois religious corporation" are being wasted and not used in accordance with the trust impressed upon them, and

E. States that said assets are being used in accordance with the Constitution of the said Illinois religious corporation and the Monastery Corporation, and

F. Denies that Firmilian has suffered or will suffer any irreparable damages as temporary administrator of the alleged "the religious body in this country," and

G. States that it is his knowledge, information and belief that the said Firmilian is the alleged temporary administrator and/or alleged bishop of the Middle-Western American Diocese, one of "the three new dioceses," and

H. States that he, Bishop Dionisije, is the lawfully and legally appointed, accepted and acting bishop of the Serbian Eastern Orthodox Diocese of the United States of America and Canada, the "Illinois religious corporation"; that said structure is the only religious diocese and body existing in the United States of America practicing the Serbian Orthodox faith, and that prior to the filing of the Second Supplemental and Amended Complaint the said Bishop Dionisije had never heard of the alleged "religious body in this country" as alleged in that Complaint.

COUNT III

(PARAGRAPHS 8, 12, 13, 14, 15, 16, 17 & 23)

Now come the Defendants, Serbian Eastern Orthodox Diocese For The United States Of America And Canada, the "Illinois religious corporation" and The Serbian Orthodox Monastery Of St. Sava, an Illinois not-for-profit corporation, the "Monastery Corporation" and Bishop Dionisije Milivojevich, pursuant to the Order of this Honorable Court and state as follows:

Paragraph 8. Now comes the Defendant, Bishop Dionisije, and in answer to Paragraph 8 of the Second Amended and Supplemental Complaint, states that he is now the legal and lawful president of the Illinois religious corporation and the supreme head of the monastery corporation pursuant to the terms of the Constitutions of the aforesaid corporations and that he has, at all times mentioned in the Second Amended and Supplemental Complaint, been accepted pursuant to the customs, traditions and rules of the said Corporations, in such capacity and that he has at

no time been lawfully suspended or removed from such position, and said Corporations hold title to real and personal property in trust for all members of the Serbian Eastern Orthodox Diocese of the United States of America and Canada, the "Illinois religious corporation" and not for "the religious body in this country."

Paragraphs 12, 13, 14, 15, 16 & 17. Defendants reallege and adopt their answers to Paragraphs 9, 10, 11, 12, 13 & 14 of Count I as and for their answers to Paragraphs 12, 13, 14, 15, 16 & 17 of Count III as fully as though said paragraphs were herein set forth verbatim.

Paragraph 23. The Defendants reallege and adopt their answers to Paragraph 20 of Count I as and for their answers to Paragraph 23 of Count III as though said paragraph is set out verbatim.

Snyder, Clarke, Dalziel,
Holmquist & Johnson
By *Gerald C. Snyder*
Gerald C. Snyder

(Certificate of Service Omitted in Printing)

IN THE CIRCUIT COURT
OF THE 19TH JUDICIAL DISTRICT OF ILLINOIS

(Title Omitted in Printing)

ANSWER TO COUNTERCLAIM

Now comes counterclaim defendant the Right Reverend Bishop Firmilian Ocokoljich (hereinafter referred to as "Bishop Firmilian") and states for his answer to those portions of the counterclaim which have not been stricken as follows:

1. Bishop Firmilian denies that Dionisije Milivojevich (hereinafter referred to as "Dionisije") is now a duly consecrated and ordained Bishop of the Serbian Eastern Orthodox Church or was ever so decreed by King Paul of the Kingdom of Yugoslavia. Bishop Firmilian admits that Dionisije was duly consecrated as a Bishop of the Serbian Eastern Orthodox Church in 1938.

For further answer, Bishop Firmilian affirmatively avers that Dionisije was duly ordained to the priesthood in the Serbian Eastern Orthodox Church in Yugoslavia and subsequently, i.e., in 1938, Dionisije was consecrated as Bishop of the Serbian Eastern Orthodox Church by the Holy Assembly of Bishops in Belgrade, Yugoslavia.

For further answer Bishop Firmilian affirmatively avers that Dionisije was:

(i) suspended from his duties and privileges as Bishop on May 10, 1963;

(ii) removed from his position as Bishop on July 27, 1963; and

(iii) divested of his episcopal and monastic ranks, i.e., defrocked, on March 15, 1964.

Copies of the orders referred to in subparagraphs (i), (ii) and (iii), above, are attached to the Second Amended and Supplemental Complaint as Exhibits "A", "B" and "C", respectively, and are by reference incorporated herein.

2. Bishop Firmilian denies the allegations, and each of them, contained in paragraph 2.

3. Bishop Firmilian denies that in April of 1940, Dionisije was received and accepted as Bishop of the religious body in this country. Bishop Firmilian admits that from April of 1940 Dionisije did undertake to perform the duties of the Diocesan Bishop of the religious body in this country and as President of the Illinois religious and monastery corporations.

For further answer, Bishop Firmilian affirmatively avers that Dionisije was made Diocesan Bishop of the religious body in this country by the Holy Assembly of Bishops. That action of the Holy Assembly of Bishops appointing Dionisije as Diocesan Bishop of the religious body in this country did not need, nor require, the approval of the lay or ecclesiastical members of the religious body in this country nor of the Illinois religious or monastery corporations.

4-14. These paragraphs, and each of them, have been stricken.

15. Bishop Firmilian denies the allegations, and each of them, contained in paragraph 15.

For further answer Bishop Firmilian affirmatively avers that the three new dioceses were created by duly authorized oredrs of the Holy Assembly of Bishops of the Serbian Eastern Orthodox Church (which church is hereinafter referred to as the "Mother Church").

16. Bishop Firmilian admits that the intermediate appellate court, i.e., the Illinois Appellate Court for the Second District, has ruled that the creation of the three new dioceses was void.

For further answer, Bishop Firmilian affirmatively avers that the three new dioceses were properly created by duly authorized orders of the Holy Assembly of Bishops of the Mother Church.

17. Bishop Firmilian denies the allegations, and each of them, contained in paragraph 17.

For further answer, Bishop Firmilian incorporates herein by reference his answers and affirmative averments pled in paragraph 16 above.

18A. Bishop Firmilian denies that he claims to be Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

For further answer, Bishop Firmilian affirmatively avers that he was appointed as the temporary administrator of the religious body in this country by the duly executed order of the Holy Episcopal Synod of the Mother Church dated May 10, 1963, a copy of which order is attached to the Second Amended and Supplemental Complaint as Exhibit "A".

For further answer, Bishop Firmilian affirmatively avers that he has been duly recognized as the temporary administrator for the religious body in this country by the Appellate Court of Illinois for the Second District in its opinions heretofore rendered in this case.

18B. Bishop Firmilian denies the allegations, and each of them, contained in paragraph 18B.

For further answer, Bishop Firmilian affirmatively avers that the church organization in this country consists of the religious body in this country which came into existence long prior to the forming of the Illinois religious corporation and the monastery corporation.

For further answer, Bishop Firmilian affirmatively avers that the religious body in this country owns no property. The religious corporation and the monastery corporation were formed for the purpose of, and do hold property.

For further answer, Bishop Firmilian affirmatively avers that he is entitled to the control and use of the assets of the Illinois religious and monastery corporations by virtue of his ecclesiastical appointment as temporary administrator of the religious body in this country in that when the office of Diocesan Bishop is vacant the temporary administrator of the religious body in this country takes over the functions of the Diocesan Bishop and is, therefore, the presiding president of both the Illinois religious corporation and the monastery corporation.

For further answer, Bishop Firmilian affirmatively avers that the assets of the Illinois religious and monastery corporations are impressed with a trust to be used solely for the benefit of the members of the religious body in this country, as was found by the Appellate Court.

18C. Bishop Firmilian admits the allegations, and each of them, contained in paragraph 18C.

19. Bishop Firmilian denies the allegations, and each of them, contained in paragraph 19.

20-24. Bishop Firmilian denies the allegations, and each of them, contained in paragraphs 20 to 24, both inclusive.

For further answer, Bishop Firmilian affirmatively avers that in its decision the Appellate Court found that the removal of Dionisije's monastic order and his defrocking were ecclesiastical matters with regard to which the secular courts are bound and that Dionisije had, in fact, been removed of his monastic order and defrocked and is, therefore, no longer a Bishop of the Mother Church.

For further answer, Bishop Firmilian affirmatively avers that by virtue of Dionisije's defrocking and removal he is no longer the Diocesan Bishop of the religious body in this country and, therefore, Dionisije is no longer the presiding officer of either the Illinois religious corporation or the monastery corporation.

25. Bishop Firmilian admits that a justiciable controversy exists between the parties.

Wherefore, Bishop Firmilian prays:

1. That the counterclaim be dismissed and discharged for want of equity;

2. That he be discharged and go hence without day; and

3. That he recover his costs reasonably expended in connection with the defense against the counterclaim.

John J. Crown
John J. Crown
One of the attorneys for
plaintiffs

IN THE CIRCUIT COURT
OF THE 19TH JUDICIAL DISTRICT OF ILLINOIS
(Title Omitted in Printing)

REPLY

Now come Plaintiffs, Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious body, i.e., "the religious body in this country," et al., and state for their reply to Defendants' answer and supplemental answer to the Second Amended and Supplemental Complaint as follows:

9. Plaintiffs deny that the religious body in this country and the Illinois religious corporation are one and the same. Plaintiffs affirmatively aver that the religious body in this country is the so-called diocese for this hemisphere whereas the Illinois religious corporation is a religious corporation created by the diocese pursuant to Ill. Rev. Stat., 1967 c. 32 §§ 164-175.

11(B). Plaintiffs deny that the religious body in this country is an Illinois religious corporation. For further reply, Plaintiffs incorporate herein by reference the allegations, and each of them, contained in paragraph 9 of this reply.

12(A). Plaintiffs deny that the religious body in this country is an Illinois religious corporation. For further reply, plaintiffs incorporate herein by reference the allegations, and each of them, contained in paragraph 9 of this reply.

Respectfully submitted,

Henry D. Fisher
One of the attorneys for
plaintiffs.

IN THE CIRCUIT COURT
OF THE 19TH JUDICIAL DISTRICT OF ILLINOIS
(Title Omitted in Printing)

REPLY TO AFFIRMATIVE DEFENSE

Now come the Defendants, by Snyder, Clarke, Dalziel, Holmquist & Johnson, Leo J. Sullivan, their attorneys and for reply to the affirmative defense state as follows:

1. The Defendants deny the existence of any "religious body" in this country and state that the only act of organization known as the Serbian Eastern Orthodox Diocese for the United States of America and Canada is an organization duly incorporated and acting under the laws of the state of Illinois as a religious corporation. The Defendants deny all allegations of paragraph 1 and demand strict proof thereof.

2. The Defendants deny all allegations of paragraph 2 and state that said allegations are mere conclusions at law which the Court should not consider. Defendants affirmatively state that the constitution of the United States and the constitution of Illinois do not condone. approve and protect fraud and deceit.

Wherefore, Defendants pray:

A. That the Motion for Temporary Injunction be allowed.

B. That the Court grant such other relief as prayed for in the Motion.

Snyder, Clarke, Dalziel,
Holmquist & Johnson

By: *William A. Holmquist*
Attorneys for Defendants

TESTIMONY (ABSTRACTED AND VERBATIM)*

ABSTRACTED TESTIMONY

Page of Record

2 MLADEN MLADENOVICH testified as follows:

Direct Examination.

Having been first duly sworn through an interpreter:

3 I am Mladen Mladenovich a priest of the Serbian Orthodox Church, serving as General Secretary of the Holy Synod. I performed the duties of general secre-
5 tary from 1960 to 1962. Prior to 1960 I was a clerk. I
6 was ordained a priest in 1931 and held the position of
7 assistant priest in the city of Uzize. In 1932, I was ap-
8 pointed a parish priest in Arilje and stayed there until 1939, when I was appointed clerk of the Holy Synod. I took an examination and was appointed Pesar Secretary to the Holy Synod, and assistant secretary.

(Interpreter states that "Pesar" is Junior Clerk.)

11 I was born in Arilje and I attended elementary school, four classes of gymnasium, five classes of theological seminary with examination and theological faculty of Belgrade University. I have a diploma of terminated for theological faculty. I attended seminary
12 school for five years and four years some of the theological college at the University of Belgrade. I received my diploma in 1937. My duties as secretary of the Holy Assembly are handling of the whole archives of the Holy Synod and counsel of Bishops, receiving all mail, preparing agenda for the Holy Synod meetings
13 and attending each meeting of the Holy Synod in taking minutes. After the meeting I work out decisions and give to the clerks the decisions to be typed and I read these at the next meeting of the Holy Synod. The report is then signed by myself, the president who is the Patriarch and the four members of the Synod who are Bishops. If a decision is not correctly recorded I am supposed to give suggestions and corrections. I prepare the minutes of the meetings of the Holy Synod which are then signed by the Patriarch and four Bishops. Incorrect minutes are not signed until they are corrected.

15 The Holy Synod is the executive organ of the Holy Assembly of Bishops and consists of the Patriarch and four bishops. A patriarch is also a bishop. Only mem-
16 bers of the Holy Assembly of Bishops can attend their meetings. Administrative people are sometimes invited to sessions of the Holy Assembly of Bishops to give opinions. These persons will give and answer
17 questions and then will leave the meeting. No one
18 other than the patriarch and bishops can attend the deliverative portions of the Holy Assembly of Bishops.
19 I keep the records of the minutes of the Holy Assembly of Bishops. The Holy Assembly of Bishops
21 elects two secretaries among the bishops in attendance and they take the minutes. After the meeting they come to my office and prepare minutes of their meeting. In the following meeting of the assembly the secretaries read the minutes of the previous meeting and, if they are accepted, the minutes are signed by the Patriarch and all bishops who attended. The minutes are

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* The abstracted testimony in this Appendix is taken from the Abstract of Record prepared by the present Respondents for use by the Illinois Supreme Court. At various points in this Appendix this abstracted testimony is supplemented with portions of verbatim testimony which was placed before the Illinois Supreme Court in the Supplemental Abstract prepared by the present Petitioners.

corrected if there are some suggestions or corrections and then signed. The minutes are then delivered to me by the two secretaries.

These minutes are preserved by binding in a book. The minutes of the Holy Synod are bound also. These books are kept by me. They are kept under lock and key and I have a key and if I am not there I leave it to the Patriarch. I or the Patriarch have possession of the key. I am familiar with all of the minutes of the Synod and Assembly since the time I became secretary. These bound volumes of minutes do not leave the archives of the Serbian Orthodox Church. Everything that is received in the archives has an official number. The archives consists of official documents, documents of letters to other churches, letters to the bishops, letters from other theological schools governed by the Holy Synod and certain decisions of the Holy Assembly. The minutes of both the Synod and Assembly are part of the archives. Different individuals can write to the Synod or Bishops and the church be notified about this. These writings are made a part of the archives. Financial reports and records are not lodged in the archives at the Holy Synod. I am responsible for these archives. The minutes of the Synod and Assembly are not permitted to leave my possession. Copies are made. The authority of the assembly and the patriarch is required to make copies. I instruct the clerks to make copies. I verify the correctness of the copies with my signature and seal.

I am familiar with Plaintiff's Exhibit 1A which is an excerpt from the minutes of the Holy Synod. It bears my signature and is a true and correct excerpt from the Holy Synod meeting held on May 10, 1963. I am familiar with Plaintiff's Exhibit 2A which was prepared under my supervision. It is a true and correct

excerpt of pages 107 and 108 in the meeting of the Holy Assembly held on May 10, 1963. I certified the document with my signature.

Defendants object to Plaintiff's offer of Exhibits 1A and 1 and 2A and 2 and the Court reserves ruling until the conclusion of cross-examination.

A list of names, Bishop Valerijan, Hrizostom and Fladislav appear at the bottom of Plaintiff's Exhibit 1A. In the original minutes the signatures of these respected bishops appear.

That which follows the number 188 and commencing with the word "minutes" is an exact copy of the minutes in my possession. The material which immediately proceeds the paragraph commencing the same minutes on page 120 is an exact quotation. And that which follows commencing with the words "in the same minutes of page 120" is a statement by me. On Exhibit 2A a quotation mark proceeds the third full paragraph which commences with the words "then his holiness . . ." and there is a quotation mark at the close of the paragraph ending with the words "of the Serbian Orthodox Church". This is an exact excerpt of what appears in the minutes of the meeting of the Holy Assembly of Bishops on March 10, 1963.

The names of various bishops listed on Exhibit 2 are the names of the bishops who signed the minutes. Plaintiff's Exhibits 1, 1A, 2 and 2A appear on the pages of the original which are referred to in the Exhibits. The Serbian Orthodox Church is patriarch and Holy Assembly of Bishops. It is Episcopal and divided into dioceses. By Episcopal I mean there is a diocesan bishop.

The head of the diocese is the diocesan Bishop. There are also a diocesan executive committee, diocesan council and the diocesan Bishop has his special

person as attorney, church prosecutor. The diocese is divided into parishes and church school communities which cover one, five or ten parishes according to geographical territory. The director of the church is the parish priest, and if there is more than one priest, the one appointed by the Bishop as the head of the church community is president of the church
38 community. Also directly under the jurisdiction of the diocesan bishop are monasteries for monks and nuns. Monks perform different duties in the Serbian Church. Really they are in the monasteries, but they also serve as parish priests, professors of theological schools, officers of the Holy Synod, or assistants to
39 a bishop. The bishops assembled in the Holy Assembly constitute a legislative, and executive and supervising authority of the church. Separately, a Bishop does not have all that authority. The Holy Assembly
40 of Bishops is the highest authority in the Serbian
41 Orthodox Church. He uses this authority when as-
42 sembled. The Holy Synod is the executive authority branch of the Holy Assembly of Bishops. The Serbian
43 Church is hierarchical and by that I mean that the hierarchy consists of three grades, episcopal, presby-
46 terian and deacons. In the hierarchical church, the Serbian Orthodox Church, we understand three degrees of hierarchy; bishop, priest and deacon. Among Bishops there are differences in rank; a patriarch, diocesan Bishop, Metropolitan and deacon are also bishops. There are differences in rank and title among priests. An arch-priest with a cross, a special decora-
47 tion cross given by higher authority, is a priest. There is a married priest and a priest of monastic order, a monk. An arch-monk is a monk who has a title which indicates he has a high position. I am an arch priest

48 with a cross. A deacon is the beginning of service in priesthood and the next rank is arch-deacon. This is true of a married deacon but there are those who are in the monastic order, hierdeacon and arch-deacon Dioceses of the church are divided into vicarites.

The word "Sabor" means assembly. Regulation
49 assemblies of the Holy Bishops are held once a year and special sessions held according to the need. Both are convened by the Holy Synod and by the Patriarch Chairman. If the Patriarch is deceased the Holy Synod convenes the assembly of Bishops. The Holy Synod is composed of the patriarch as president and four diocesan Bishops as members. Members of the
50 Holy Synod are elected by the Holy Assembly of Bishops for a period of two years, two members elected each year. I am the custodian of all the minutes of the Holy Synod and Assembly including those covering meetings prior to the time that I became
51 secretary. I have these minutes under my keeping under lock and key and they are available only to me and the patriarch when I am not in Belgrade. PX 3a
53 is familiar to me. The original of PX 3a is in my cus-
54 tody and control. This letter to Bishop Firmilian as administrator was transmitted to Bishop Firmilian,
60 to my knowledge. The true and correct copy of the original letter is in my possession and control as
64 secretary of the Holy Synod. I am familiar with PX 3c a letter addressed to Bishop Firmilian, at that time Archimandrite Firmilian. I know that Exhibit 3c was transmitted to Archimandrite Firmilian. I prepared the letter and gave it to responsible officers
65 to mail. A letter was likewise transmitted to Bishop Dionisije. These letters, one to Archimandrite Firmilian and the other to Bishop Dionisije were pre-

pared maybe one day later than the date on the letters. I do not recall exactly when they were pre-
66 pared. PX 3b and 3c were dated May 10, 1963. It would have been prepared on that day or one day later. Copies of letters mailed outside the patriarchate are retained in my files. I had occasion to refresh my recollection by examining those files before coming to America on this occasion. A letter to Bish-
67 op Dionisije was prepared under my direction on May 10, 1963. At the same time as the letter to Archimandrite Firmilian was prepared. It was mailed at the same time the letter to Archimandrite Firmilian was
72 mailed. PX 3e is a true and correct and exact copy
73 of the letter of May 10, 1963. It was mailed to Bishop Dionisije.

There was an assembly of Bishops meeting in May, 1963, but I can't confirm the date of the commence-
74 ment of the assembly. The meeting commenced prior to May 10, 1963, perhaps two or three days. I recall the sessions of the assembly on May 10, and know that the Holy Assembly also met. I participated in the preparation of the agenda for the meeting of the Holy Assembly and the agenda for the meeting of the Holy
75 Synod on that day. I recollect both agendas. And I know the course of events with respect to the Assembly and the Synod from my own knowledge. At the
76 beginning of the meeting of the Holy Assembly, complaints against the former Bishop Dionisije were taken into consideration as a whole. By complaints I mean those that came to the Holy Synod; those that were brought by the delegation which visited the United States in 1962. Metropolitan Damaskin headed
79 that delegation. Relating the course of events of the sessions of the Assembly I am basing my knowledge

on the preparation of the agenda. After the agenda
80 was prepared it was handed over to the secretaries of the Holy Assembly. The agenda, after the meeting, is recorded in the minutes of the Assembly. The patri-
81 arch reads the agenda to the Assembly and asks if the agenda is accepted. As soon as it is accepted then it enters the minutes as the first item and he proceeds from one item to another until the agenda is covered. The paper on which the agenda is written is de-
90 stroyed. My testimony is based upon knowledge I gained from preparation of the agenda for the Assembly meeting on May 10, 1963. Next considerations of the Assembly of Bishops were the problems of the church in the United States of America and Canada
91 and the problems suggested by Bishop Dionsije. The Assembly meeting took two breaks on May 10. The first recess occurred sometime before noon. At that
99 time the meeting of the Holy Synod convened. I attended the meeting of the Synod and I know what occurred. The Holy Synod was convened to put into effect the decisions of the Holy Assembly. I helped
93 prepare PX 4a, in my capacity as secretary. Quoted
94 material comes from the decisions of the Holy Assembly of Bishops which was recorded in the minutes of the meeting of the Holy Assembly of Bishops held on the date which is on the document. Material quoted
101 in PX 4a is the true and correct excerpt from the minutes of the Holy Assembly meeting on May 10, 1963.
103 The action quoted in PX 4a took place after the first recess. This action started after the meeting of the Holy Synod. Minutes were made of the meeting of the Holy Synod on May 10. PX 1 and 1a are those
104 minutes. There are no other minutes of that meeting other than what is quoted in PX 1a. The Holy Assem-

bly re-convened following the meeting of the Holy Synod.

106 The discipline procedure concerning Bishop Dionisije was done in the morning and not in the afternoon. The subject of the creation of the three dioceses was
107 considered in the afternoon. The material in Exhibit 4 and 4a is a true and correct copy of the minutes reflecting the action of the Holy Assembly of Bishops the afternoon of May 10, 1963. PX 4 and 4a are all
108 of the minutes of the meeting dealing with the creation of the three dioceses. I am familiar with PX 5a
112 and I have compared it with the original minutes.
113 Exhibit 5a, commencing with the quotation preceding the second full paragraph and terminating at the end of the last full paragraph is a true copy of the minutes of the Assembly of Bishops held on May 10, 1963. The seal at the foot of Exhibit 5 is that of the judicial translator at the county court in Belgrade. The stamps are state stamps which are paid as a fee for the verification of documents. Exhibit 5 is the origi-
114 nal and 5a is the English translation. The seal on the document is that of the Holy Synod. The certifi-
115 cation is the signature of the American Council. Exhibit 5 was sent to Archimandrite Firmilian after it
116 was prepared. I am familiar with PX 6 which was sent to the diocesan council from the Holy Synod. The original is among the archives and records of the Serbian Orthodox Church under my supervision. It
117 is a true and correct copy of the original in the ar-
118 chives. This is a copy of the minutes of May 10. I am familiar with PX 7a which is a copy of the original in the archives under my supervision as secretary.
119 I have compared this copy with the original. It was

sent to persons who are concerned in this matter including Archimandrite Firmilian, Arch-priest Stefan Lastivica and Archimandrite Gregory Udicki. Archimandrite Stefan was located in Windsor, Canada, at
120 that time. Gregory was in Youngwood near Pittsburgh. I suppose and think a copy was sent to Bishop Dionisije. The seal of the Holy Synod was at the foot
121 of the PX 7a. The signature is that of Patriarch German. There are copies of this in the official records of the Serbian Orthodox Church in Belgrade.
122 Exhibit 7a is addressed to Mr. Steven Lastivica. Exhibit 7 is addressed to Dr. Firmilian. Each letter was
123 separately addressed but the text of the letter was identical. The letter to Gregory was addressed to
124 him. The letter to Lastivica is addressed to him. (Exhibit 7b in Serbian, dated May 17, 1963, is marked) This document is addressed to Archimandrite Udicki
125 in Youngwood. The copy was mailed to Gregory. I am familiar with the signature and the seal is that of the Holy Synod. (Interpreter establishes that Ex-
129 hibit 7 and 7a are addressed to different people and signed by different persons.) I do not know if all four
130 letters were signed by the same official; we don't make it a difference if they were signed either by the patriarch or some other members of the Holy Synod. The letter 7b is signed by Valerijn, member of the Holy Synod. Patriarch German's signature appears on
131 Exhibit 7a. Number 238 on the Exhibit 7a and 7b means record. The number 1726 is the serial number of the records book of the Holy Synod.

132 The word zap means minutes and the number 238 is the serial number of that document in the minutes of the Holy Synod. The number 1726 does not refer to a page number in the minutes. It refers to a re-

cording in the record book. When a document goes
133 through my hands into the archives of the Synod it
is given a number. In the case of Exhibit 7b it is
134 serial number 1726. The number was placed in the
document after the meeting of the Holy Synod. The
numbers following the serial number refer to proceed-
ings of the Synod or Assembly. PX 7b and 7c are
136 marked. I am familiar with Exhibit 7c; a copy of the
document is in the official records. On page 2 is the
137 signature of Bishop Vilarion and the seal of the Holy
Synod. The original of that document was mailed to
Bishop Dionisije on or about the date it bears. I at-
139 tended the meeting of May 8 to May 17 and have per-
sonal knowledge of what occurred. The decision of
May 10 was to be executed by the appointment of ad-
140 ministrators. I have exhausted my recollection of
what took place on May 17th. PX 7c was authorized
at this meeting. It was prepared under my direction
141 and supervision. It was mailed on May 17 or the next
day to Bishop Dionisije. I noticed the number 1726
followed by an oblique line and the figure 238. The
142 first number is that of the record book and the second
is the serial number of the minutes of the Synod.
143 The abbreviation "ZAP" means minutes and the
numbers on Exhibit 3a have the same significance as
144 I just testified. The lower number of document 3a
indicates that the meeting concerning it took place
earlier than the meeting concerning exhibit 7c. This
145 rule applies to all documents. The lower the number
indicates an earlier point of preparation of a docu-
ment. If the record number is lower it indicates that
the subject was entered in the archives earlier than a
146 higher number. A lower minute number always means
that the subject was discussed prior to a higher min-

147 ute number. The minute number 188 means that the
matter was completed and acted upon before minute
number 237. Document number 1726, PX 7c was com-
148 pleted after 1725. I am familiar with Plaintiffs' Ex-
hibit 8a which I ordered prepared and which I checked
right after receipt. I compared this document with
the original minutes prepared under my supervision
155 and direction. This exhibit is an exact copy of the
157 original. I don't have any particular duty when the
assembly is in session. When the session is over the
secretaries come to my office with notes and request
technical help from me for the composition of the min-
utes. These sessions are held in secret behind closed
159 doors. There are two doors, one of which is locked
and there is a vestibule and at the end of the vesti-
bule is the actual door into the Assembly room. The
160 door is guarded by one of the guards of the Holy
Synod. I am in my office when the Assembly is in
161 session. I can recall only one occasion when a per-
son other than the Bishops of the church were in the
Assembly room during a meeting. A non-Bishop ex-
pert is required to leave the Assembly after fulfilling
the purpose for which he is invited. I was not
in Belgrade at the time of the Assembly meeting
162-3 July 27, 1963. Minutes for that meeting were prepared
and I kept them in my custody and control as secre-
164 tary. I personally examined the minutes to determine
whether the Bishops signed them. I certified the min-
utes.

165 On page 1 of Exhibit 8a is an excerpt from the
report of the commission appointed to investigate
167 Bishop Dionisije. That quotation is correct. I am
familiar with Exhibit 9a, a copy of a document in the
archives under my control. I had nothing to do with

the preparation of 9a. This is a true and correct copy. The signature is that of Patriarch German and the seal is that of the Holy Synod. This is the original. The decision of the Assembly on July 27, 1963, was transmitted to Bishop Dionisije, and Archimandrite Firmilian. Exhibit 10 is an original document with which I am familiar. The signature is that of Patriarch German and it is among the records and archives of the church. The Serbian which appears in Exhibit 10 is a duplicate of that which appears on 10a, down to the signature of Patriarch German. A copy of PX 11a is in the archives and the records of the church. This is a copy of the notice which was sent to Bishop Dionisije. I am familiar with Exhibit 12a. It bears the signature of Patriarch German and there is a certification from the counsel of the United States. This exhibit bears number 2403 and this is the number it receives when it was recorded upon receipt by the Synod. Number system begins with each calendar year. Documents which are sent are not given a received document number. The number 2403 in this document indicates the Holy Assembly sent it to the Synod and it was then given a number. The minutes number is 356 and it refers to the minutes of the Synod. That minute number refers to a group of minutes covering the same meeting. The number refers to a subject which occurred in the meeting. I assign these numbers.

Assembly number 44 on PX 12a refers to the serial number of the record book of the assembly of Bishops. The number 2 refers to the number under which the decision is recorded in the minutes of the Assembly. I am familiar with PX 13a which is a correct copy of a document in the archives. Bishop Firmilian

signed this document. I had occasion to check the minutes of the Holy Assembly of May 11, 1963. The decision referred to in PX 13a is recorded under that number in the minutes. Exhibit 13a in the second full paragraph reflects my mission on that occasion. I came to America on June 28, 1963, and I returned in the beginning of August. I was a technical person to the Bishops whose names are in the document. Their mission was to perform the consecration of Rev. Stefanovich as Bishop and to meet with the former Bishop Dionisije and discuss with him the complaints that were sent against him. I attended the consecration which occurred about July 10, in Aliquippa, Pennsylvania. Bishop Stefanovich is now dead, having died May 10, 1966. 13a was mailed to Archimandrite Gregory Udicki.

I am familiar with PX 14a which bears the signature of Bishop Emilijan and the seal of the Synod. This is a true copy of the document in archives. It was mailed on or about the date it bears.

The two bishops arranged the meeting with Bishop Dionisije and also sent him a letter. They went to a meeting in Libertyville and I was not present. They came back from the meeting and we got together and they brought with them the minutes of that meeting. The meeting was with people who had sent complaints. I was not present at meetings with complaining witnesses. I did not see the complaints in writing. Two Bishops wrote a joint report and Bishop Vasarion went to Belgrade.

The meeting with Bishop Dionisije was arranged through intermediaries, Nick Stepanovich and Uros Seferovich. Mr. Stepanovich is one of the co-counsels for defendants. Bishop Vasarion returned to Belgrade

to submit the report on the difficulties they faced in their meeting with Bishop Dionisije. That member returned to Belgrade before July 27.

193 This Bishop did not come back to Belgrade from the United States and the remaining Bishop returned with me to Belgrade in August. I am acquainted with
195 PX 15A, the original of which is in the archives. Dr. Uros Seferovich was on the diocesan council of the American-Canadian Diocese at that time. The docu-
196 ment was mailed in America to the patriarchate in Bel-
197 grade. Exhibit 16a is the formal indictment of Bish-
199 op Dionisije. The first page of the exhibit refers to Bishop Firmilian of the Middle West Diocese. Copies
201 of the indictment were enclosed with a letter to Bishop Firmilian and I suppose that copies went to the other two Bishops in America. Letters of transmittal to the other two bishops are in our files in Belgrade.
202 The original indictment was transmitted to Bishop
203 Dionisije. There was in fact a letter of transmittal to Bishop Dionisije.

205 PX 18a is signed by me as secretary. I prepared
206 the original at the request of Bishop Firmilian. This
207 document is in brief points the decisions of the Holy Assembly and Holy Synod regarding the problems in the United States. It was prepared on November 12 and transmitted to Bishop Firmilian. I used the
208 minutes of the Holy Assembly and Synod in preparing this document, and it is a true and correct reflection of each of the minutes and documents. Concern-
209 ing the reference in the second full paragraph, paragraph No. 3, I know that Bishop Dionisije was notified
211 by mail. The original of PX 19a was received by the Patriarchate in Belgrade and is among the records of the church. It was received a few days after the date it bears, November 18, 1963.

214 I am familiar with PX 17a which I prepared in my office in Belgrade. The document was actually pre-
215 pared in Milwaukee, Wisconsin, but a copy was delivered in Belgrade. I did not receive the original in Milwaukee; it was handed to me in Belgrade. It was brought to Belgrade by the head of the delegation, Bishop Chrysostom. The members of the Commission who signed the document prepared it; I did not prepare it. At the time it was brought to Belgrade, it had
216 been signed by the two Bishops whose names appear on it. The document was then delivered to the Holy Synod. I do not find a document number of this docu-
217 ment. I do not know what was done with the document when it got to Belgrade because I was not there. I have examined the archives and other records to determine whether this document was transmitted by mail and it was. The document was sent to those to whom it was addressed from Milwaukee. I know that
219 some priests came to Milwaukee and other people came to Milwaukee and this document was given out to them. It was distributed around July 6, 1963.

220 Both investigating commission Bishops were in America at that time. Bishop Chrysostom took the original and copies of this document to Belgrade after it had been distributed from Milwaukee.

Exhibit 18 does not list the events recited in the order in which they took place. I will repeat the events.
221 First on May 10, 1963, the assembly suspended Bishop Dionisije and ordered the Holy Synod to start judicial procedure against him. During the recess from this session, the Synod appointed Archimandrite Firmilian as administrator of the diocese. Later that day, the Assembly created the three new dioceses. Bishop

Dionisije was appointed to the Middle Western Dio-
222 cese. Three administrators were appointed for the three dioceses. The judicial proceedings continued with the request for an investigating commission which was sent to America. After the commission arrived in
223 America and finished its duties, it tried to meet with Bishop Dionisije.

225 The subject matter of paragraph 5 occurred subject to the matters recited in paragraph 4.

228 I am familiar with PX 20a which was typed in the office of the Holy Synod and brought to the meeting of the Synod. It was sent to the former Bishop Dionisije. It was signed by Bishop Firmilian. It was sent to
229 Bishop Dionisije in Libertyville.

230 I am familiar with PX 21a. It was a copy of the
231 original judgment which is in our archives. It was
232 entered on the date which it bears by the Holy Assembly of Bishops. The persons listed on the last page are members of the Assembly of Bishops.

233 I am familiar with PX 22a which was prepared under my supervision on or about the date it bears. It is a copy of the original in our archives. It was signed by
236 Patriarch German. The abbreviation and numbers
237 indicate that the letter was signed by the Patriarch and it was the 44th letter issued in 1964.

MLADENOVICH testified as follows:

Direct Examination.

250 The Bishop was appointed to replace Bishop Stefan. I prepared PX 23a. This Exhibit is signed by the
251 Patriarch and members of the Holy Synod. The Holy
252 Synod executes the decision of the Holy Assembly appointing Bishops. I prepared an excerpt from the
253 minutes of the Assembly of Bishops held August 31,

1921. I also certified that excerpt. In 1921, the Patri-
255 arch was Demetrios. PX 24a bears my signature. The
257 difference between the two calendars referred to in PX 24a is fourteen days.

262 PX 25a is an excerpt of the assembly minutes for August 31, 1921. I prepared the excerpt and my sig-
263 nature is on the Exhibit. The quoted material is an exact copy.

264 PX 26a was prepared by me and bears my signature.
266 The material within the quotation mark is an exact reproduction of the minutes. In the minutes appear
267 the names of several candidates proposed as administrator of the diocese and I consider that it was essential to name only the person who was actually appointed by the Synod.

268 I prepared PX 27a which bears my signature and the seal of the Synod. The quoted material is an exact
269 duplication from the minutes of the Assembly of Bishops held November 23, 1925. I prepared PX 28a which bears my signature and the seal of the Synod. This excerpt is taken from the minutes of the assembly for October 12, 1928. The quoted portion is an exact dupli-
271 cation.

272 I prepared PX 29a and certified it. Quoted portion
273 is an exact copy. On this exhibit the number 14 refers
274 to the registration book and the other number, 77, relates to the number of the minutes. Excerpt 29a deals with the execution of the decision of the Holy Assembly of Bishops. The phrase "Syn" numbered
276 2396 indicates the registration book of the Synod.

280 The reference in PX 30 to the authorization of the Holy Bishops' Assembly is to the same reference numbers as appeared on PX 29a and 28a. The second date
281 number relates to the calendar which is used in Ameri-

ca. With reference to Exhibit 29a the number 1457 indicates the number of minutes of the Holy Synod and the second number 2386 indicates the number in the registry book of the Holy Synod. The number 2396 also indicates the number in the registry book. The difference between 2396 and 2386 could indicate that somebody made a mistake. The numbers on the second page of the constitution, PX 30, are the same that appear in the portion of the minutes, PX 29a.

Exhibit 31a was prepared under my supervision. It bears my signature and seal and it is an excerpt of the meeting of the Holy Assembly in 1939. (The Court permits counsel to call the witnesses' attention to various portions of the Diocesan Constitution, not as a matter of evidence, but solely as a help to the Court.) Article 23 subsection 8 refers to amendments. PX 31a is an excerpt of the minutes. PX 32a bears my signature and the Synod seal. It contains a correct copy of an excerpt of the minutes of December, 1935, a meeting of the Holy Synod. Article 13 of the American-Canadian diocesan constitution provides for an administrator until such time that a regular Bishop is elected to fulfill the vacancy of the office of Bishop.

PX 33a bears my signature and the seal. In the correct copy of a portion of the minutes of the Holy Bishops' Assembly in June 21, 1936. After the death of Bishop Mardary, His Grace Bishop Irinej acted as administrator of the American-Canadian Diocese. Bishop Irinej was appointed administrator by the authority of the Serbian Orthodox Church constitution and the American-Canadian Diocesan Constitution. PX 34a has my signature and the seal of the Synod. It contains an excerpt of minutes from the June 22, 1938, meeting. Paragraph 9 of the Diocesan Constitution gives the assembly the right to appoint the Bishop. PX 35a bears my signature and the seal. It is an excerpt from the Synod meeting, November 25, 1939. I am familiar with PX 36a. It contains a signature of the late Patriarch Grevrilo. The references in Exhibits 36a, 35a and 3a are to the same Bishop Dionisije. Newly elected Bishops are required to write an oath and read it before the Bishops who are consecrating him [sic]. (Defendant's counsel admits the authenticity of the document). 37a is the only oath the Bishop of the Serbian Orthodox Church takes. When the Holy Assembly refers to a Bishop's oath they refer to an oath similar to 37a. (Defense counsel states that during the recess he has examined 37a and 22 lines are undecipherable). (Defense counsel states that he is not stipulating that this is a true and correct copy of the oath).

PX 38a bears my signature and the Synod seal. The quoted material is a portion of the Assembly minutes in 1951. PX 39a bears my signature and my seal. It is an excerpt of certain minutes of the Assembly in 1952. PX 40 is an English translation of PX 40a. My signature appears on 40a. This is an excerpt of the minutes of the meeting of the Assembly held June 1, 1961. The excerpt is accurate. My signature appears on PX 41a. It is an accurate excerpt from the May 16, 1952, Assembly meeting. PX 42a contains my signature and the seal. It is an excerpt from the November 26, 1957, Synod meeting. The quotation from a letter of Bishop Dionisije is accurate. PX 42d is a correct copy of the original. The numbers on it refer to proto call books. My signature appears on PX 43a. This is an excerpt from the Assembly minutes of September 9, 1958. The quoted portion of the Assembly

and Synod minutes are accurate. We reviewed the original of PX 42a, in the archives. This photocopy was made under my supervision. The signature is that of the late patriarch Vikentije. The original of PX 37a is in the archives of the Holy Synod. I was not present at the time of the consecration of Bishop Dionisije. I prepared PX 39c, photocopy of a letter from Bishop Dionisije to Patriarch Vikentije.

Patriarchate is the building which houses the central administration government of the Serbian Orthodox Church. Meetings of the Holy Assembly and Synod are held there. The entire archives are kept in the building in Belgrade. The patriarch, Bishop members of the Synod and all diocesan Bishops have access to the archives, but I obtain the materials for them. Clerks also have access. They use the archives in preparing a report for a meeting, or if it is necessary in connection with a subject that they are dealing with. They request access through me. No other persons, legal entities, state or municipal, have access to the archives.

I prepared PX 40c. It is a copy of an act of Bishop Dionisije dated in the month of May 1951. This document was received by Patriarch Vikentije and it has remained in the archives since its receipt. Exhibit 40c is referred to in the minutes which are exhibit 40a. The Bishop may give his proxy to another Bishop. The constitution provides a limitation on the use of proxy. I prepared PX 41c, a copy of Bishop Dionisije's letter dated April 30, 1952, to Patriarch Vikentike. This document was received in the Patriarchate. It was submitted to the Holy Assembly of Bishops. PX 45a is in part a summary and part a quoted excerpt from the minutes of the meeting of the Holy Assembly. The

reference to an act of Bishop Dionisije on May 5, 1953, is a reference to a document sent to Patriarch Vikentije. PX 45c is the letter sent by Bishop Dionisije. This copy is a correct photocopy. The quoted portions of 45a correctly corresponds [sic] to the minutes of the assembly. The other material is an accurate summary of the portions of the minutes they refer to.

I prepared PX 46a, a document in the archives. The first page is an official decision of the Assembly; the second page is an enclosure which deals with the subject matter on page 1. The reference in 46a indicates that the Assembly did not approve proposal number 5. The enclosure 46a came from a letter from Bishop Dionisije to the Assembly. 46a and 46c, the enclosure, are identical in words. 46c is a photostat of the original. The quoted material in PX 46a comes from the minutes of the assembly. The signature at the foot of 46a is that of Vikentije. I prepared the material preceding the quoted material on 46a. It is an accurate summary. The direction contained in the last paragraph of Exhibit 46a was carried out. This document notes that the American-Canadian Bishop has been cautioned that future decisions will not be approved when they prescribed that they become effective prior to the time that competent authorities approved them. The directive in PX 46a was mailed to Bishop Dionisije.

I prepared PX 47a, an excerpt from the Synod meeting held July 15, 1958. Exhibit 47a contains a transcription of the text contained in 47c. 47c is a letter of Bishop Dionisije dated July 8, 1958, to the Assembly. This contains a proxy. PX 48a is an excerpt from the minutes of the Holy Assembly held June 9, 1959. Exhibit 48c was prepared under my direction.

48c has the signature of Bishop Dionisije and it was received by mail. The document was received with markings as appear on the face of it. Document 48c is referred to in 48a. There may be a mistake in the date on these exhibits. They are exact copies. 48a contains a proxy entrusting Bishop Dionisije's vote to Metropolitan Nektary.

PX 49a was prepared under my supervision and direction. It is a copy of the original. I presume that the longhand notations on this copy were on the original when it was received. (Counsel states that the exhibit's correct date is 19 April, 1960.) Bishop Dionisije signed PX 49a. Plaintiff's Exhibit 46a and 46 have an error. Plaintiff's Exhibit 49a was prepared under my direction. It is an exact copy of excerpts of minutes. PX 50 is contained in PX 50a. I have placed the letter, 50c, first in my certification rather than after the excerpt in order that the decision which appears in the minutes, PX 50a, would probably reflect the subject matter under consideration. The longhand markings on the exhibit have no significance to me.

PX 51a was prepared under my direction. It is a true copy of the original in the archives. It is signed by Bishop Dionisije. The constitution requires diocesan bishops to submit annual reports to the Synod, and this letter is one of those reports. PX 52a was prepared under my direction and is a copy signed by Bishop Dionisije. PX 53a was also prepared under my direction and it is a true and correct copy. PX 53a contains an exact quotation preceding the small letter b which is from the report from Metropolitan Damaskin and Bishop Nikanor. I dictated the other portion of Exhibit 53a to my clerk. PX 54a was prepared under my supervision. 54a is an accurate copy of a

document signed by Bishop Dionisije. The numbers and abbreviations refer to the protocol number of the American-Canadian diocese. Plaintiff's Exhibit 54c was prepared under my direction. There is a reference in 54c to Plaintiff's Exhibit 54a. The quoted portion of 54c is an accurate excerpt from the minutes of the Assembly meeting of May 8, 1963.

Plaintiff's Exhibit 54a contains a proxy for voting by Bishop Dionisije.

Plaintiff's Exhibit 55a was prepared under my control and supervision. It is an accurate photocopy of the original. Plaintiff's Exhibit 55c is a letter from the assembly to the clerk of the faithful in the American Canadian diocese of the Serbian Orthodox Church in the United States of America and Canada and in Diaspora. 55a speaks of 55c. 55c was originally typed and then entered into the minutes of the Assembly. 55c, in typed form, ultimately was printed at the direction of the Patriarch. It was printed to explain what was undertaken and what charges were rendered by the Holy Assembly of Bishops and what measures were taken and penalties given to the former Bishop Dionisije. The Holy Assembly wished to explain why this was done.

The church of Yugoslavia is referred to as Diaspora. These pamphlets were printed under my supervision. Diaspora refers to organized units of the Serbian Orthodox Church which exist in various countries outside of Yugoslavia. There are congregations in Parishes, four or five in England, in Triest, and Western Germany. There are five or six or perhaps more in Australia. I do not know whether or not Diaspora included the American Canadian diocese territory before the diocese was formed. PX 55a and b were

sent to the Bishops in the United States to be distributed among the clergy and faithful.

It is not customary to send copies to the clergy of brother orthodox churches. The Bishops told me they distributed these documents. It was printed in both Serbian and English so people who did not understand their mother tongue entirely could read the contents. The date of Plaintiff's Exhibit 55c, July 27, 1963, is the date which the document was brought before the meeting of the Holy Assembly while the date of 55a, August 10, 1963, refers to the date when the Synod sent the document which was adopted by the assembly. I was in America while this was occurring and I do not recall whether any statement was issued concerning what the assembly had done.

Other information was issued and compiled in Milwaukee. It was signed by the members of the investigation commission. I am 61 years old. PX 56 was prepared under my supervision and direction. PX 56a contains a correct copy of the minutes it reflects. The letter Bishop Dionisije referred to in PX 56a is in the archives of the church. Bishop Dionisije's letter of May 23, 1962, was received by the patriarchate. 56a was prepared under my direction and bears my signature and the seal of the Synod.

PX 57a was prepared under my supervision and control from the originals in the archives. The portion of PX 57a appearing above the word excerpt is a copy of a letter from Bishop Dionisije; the original is in the archives. PX 56a and 57a refer to letters which were signed by Bishop Dionisije. The reference to protocol book is to an official registry book of an organization, in this case the American-Canadian book. This book is kept in the United States. Each

diocese keeps a book. PX 58a was prepared by persons under my control and supervision from the original in the archives. The original was received at the patriarchate following May 25, 1962. It was signed by Bishop Dionisije and this is an exact copy. The parentheses on the exhibit were probably placed there by a clerk. The longhand marks in the exhibits were placed there after it [sic] was received.

PX 59a was prepared under my supervision. It is a true copy of the original signed by Bishop Emilian. This document is a letter directed to Bishop Firmilian informing him of a decision of the Holy Synod. PX 60a was prepared under my control. It is an exact copy of a document addressed to Midwest American Bishop Firmilian.

Plaintiff's Exhibit 61a was prepared by a clerk under my supervision and it was mailed following its date, May 20, 1955. It is signed by Bishop Makarije and it was mailed to Bishop Dionisije. Plaintiff's Exhibit 62a is a copy of an original document in the archives and it is signed by the ecumenical patriarch Athanegoros. Athanegoros is one of the Patriarchs of the orthodox church and is first in honor among all orthodox patriarchs. His attention is particularly devoted to the church of the ecumenical patriarch with its See in Constantinople. PX 62a was received by mail shortly after May 22, 1964. PX 22c was prepared under my supervision. It is an act of the Synod by which a copy of the judgment of the Assembly was sent to Bishop Firmilian. This is a copy and the original is in the archives. This exact copy is signed by Bishop Emilian. The quoted minutes are accurate. The other portions of Exhibit 22 are correct. The relationship between the Exhibit 22a, 22c and 22e is as

follows: 22a is a letter from Patriarch German informing Bishop Firmilian about what the Holy Assembly has decided with regard to Bishop Dionisije. Document 22e is an excerpt from the minutes of the assembly in which the subject matter of the offenses of Bishop Dionisije were decided upon. 22c is a letter from the Synod sending a copy of the judgment to Bishop Firmilian.

PX 63a is a document of the ecumenical patriarch. The original is in the archives. It was received by mail shortly after May 5, 1964. Plaintiff's Exhibit 63b is a true copy. The signature is that of Patriarch Aphenagoras. Plaintiff's Exhibit 64b is a copy of the original in the archives and it bears the registry book mark of Patriarch Athanegoras. 64b was prepared by my clerks and is a true copy. It is signed by Athanegoras and I know the original bears that signature.

PX 65a was prepared under my supervision. The original was received in Belgrade shortly after June 9, 1964. It is a true copy of the original and it is signed by Chrisostomos of Athens, Archibishop of the Greek church in Greece. PX 66a was prepared under my supervision and the original is in the archives. It was received in the second half of July 1964. It came by mail and it is an accurate copy of the original. It is signed by Christophoros, Patriarch of the Church of Alexandria.

PX 67b is an official act of the department for external church affairs of the Moscow Patriarchate of July 13, 1963, sent to the Serbian Patriarch. It was received in the mail shortly after the date it bears. 67b was prepared with my assistance under my supervision and is a copy of the original. It is signed by

Metropolitan Nikodim of the Russian Orthodox church. One of the documents enclosed with 67b is the document identified with number 67f. This document was prepared by the clerk under my control. It is a true copy of the original. The second document enclosed has been marked PX 67c (The English translation is 67a). This document was prepared by a clerk under my supervision and I compared it with the original. The registry book number referred to on this exhibit is that of the American-Canadian diocese in Libertyville and the signature is that of Bishop Dionisije.

The Serbian Orthodox Church has a written constitution adopted in 1931. PX 68a is that printed copy of the 1931 constitution. It was adopted by the Holy Assembly and proclaimed during the reign of King Alexander of Yugoslavia upon the recommendation of the Prime Minister. It was published in the official newspapers, church papers and journals and distributed among the clergy of the church. It was amended in 1947. Plaintiff's Exhibit 68a is the constitution of the Serbian Orthodox Church adopted in 1947, the second edition printed in 1957. There is no difference between the 1947 and the 1957 editions. From '47 to '57 there were some amendments. The document I have before me is the official copy of the constitution. It was distributed by the church to its officials. There have been no subsequent additions. A few amendments have been made to this constitution by the Assembly. The last amendment was in 1967. It was amended in 1962. In 1962 the Assembly temporarily took upon itself the functions recorded by the constitution to the Patriarchal council.

In 1963 it was amended when the Assembly created three dioceses in America. The action I am refer-

ring to is contained in PX 4a. In 1967 the Assembly nullified the articles pertaining to the election of the Patriarch and decided that a new patriarch would be elected only by the Assembly from among its own num-
497 ber. In March of this year the Holy Assembly created a new diocese in Europe called the Serbian Orthodox Diocese for Western Europe and Australia with its See in London. This had the effect of amending the
498 constitution. The creation of the new diocese changed the territory known as Diaspora; new diocese will encompass under its jurisdiction almost all church organizations in Diaspora. The entire Serbian Orthodox Church now is embraced within dioceses. I believe
499 I have told you of all the amendments to the 1957 constitution.

502 This document PX 68B is a 1958 edition of the Constitution of the Serbian Orthodox Church. The
510 first sentence of Article One in the 1931 Constitution is the same as the '57 Constitution and a new sentence has been added to the '57. PX 69A is the Penal Code of the Serbian Orthodox Church. It went into effect in 1961 and has remained in effect, without amend-
516 ment, to the present day. It was adopted by the Holy Assembly and carried out by the Holy Synod. Its original form it was a typewritten document and it is among the records of the church. 69A is an exact
517 copy of the original. Upon the printing of the Penal Code, copies were distributed to members of the clergy. The copies were printed only in Serbian. Copies were distributed to all bishops of the church and all priests. It was published in the official organ of the church. Printed pamphlet copies were also delivered to all members of the clergy.

According to the Constitution of the Serbian Church, the canons of the Orthodox Church are interpreted solely by the Assembly of Bishops. Article 64 and 69.9 of the Constitution so state.

There are 25 dioceses in the Serbian Church. These
520 dioceses change from time to time in territorial area. The needs and interests of the church, the progress of the church and especially in cases where the church is growing influence changes in territorial limits. Changes occur when the number of faithful and congregations become less. There have been occasions when a diocese or dioceses have been completely dissolved. The occasion arises when the Holy Assembly decides that a situation has arisen.

522 Serbian Church was founded in the 9th or 10th centuries and was under the jurisdiction of other churches. Total independence was obtained by about 150 years ago. The historical documents are not in agreement but they all claim that there were about
523 eight or nine dioceses at the time. The word autocephalous means that the head of the church is elected by the bishops of that church and the head does not need confirmation of anyone else; the church can completely govern itself and elect its own hierarchy. The church has to be autocephalous to create dioceses. The number of dioceses existing in 1931 would be listed in
524 that Constitution. The original dioceses that were in existence 750 years ago have been re-organized and obtained different names and designations. None of
525 the original ones exist as a separate or independent diocese. New dioceses were formed between 1931 and 1957. In 1947 the diocese of Belgrade was re-organized
526 and two other dioceses were formed. The diocese of
528 Czech Moravia was released from the jurisdiction of

Serbian Church and allowed and transferred to the jurisdiction of the Patriarch of Moscow, the Russian Orthodox Church. This diocese was located in Czecho-
529 slovakia. Reasons for founding new dioceses are the increase in number of faithful and clergy, the founding of new church units and more effective administration of the church and progress of church in gen-
529 eral. Increase in membership and number of congregations is a factor.

(Offer of proof). The considerations that led to the re-organization of the American-Canadian diocese were the writings of the former Bishop Dionisije who
531 sought this. I have examined the writings to which I have just referred.

I came to this country for the first time in 1963. I
532 formed the opinion that re-organization was necessary.
533 The reports of the Damascan delegation and the writings of Bishop Dionisije indicate that the faithful increased, the clergy increased and the churches and con-
534 gregations increased. I read the report of Bishop Nekkray before he came to America to testify. (Offer of proof closed.)

544 The Court rejects the offer of proof.

546 Statistics and records are kept with respect to number of churches, priests, baptisms, deaths, etc. These are compiled from reports by each diocese and bishop. I participated in the compilation of these statistics. I do not recollect the statistical data respecting the
548 church subsequent to the last war. Churches were damaged during World War II as a result of hostilities. I cannot say exactly how many. About half of
553 the churches damaged or destroyed since World War
554 II have been repaired. About 50 new churches have been built since the war.

One new cathedral was built since World War II.
555 Two temporary cathedrals have been built. Cathedral churches where the bishop resides tend to be larger than churches and more elaborately built.

556 Monasteries are used for monastic purposes. The number of monasteries has increased since the conclusion of World War II. Seminaries in Yugoslavia
557 are theological schools. Students reside and eat there.
558 The number of seminaries has increased since World
559 War II. Some members of the faculty live on the premises of the seminaries. The number of schools and members of the teaching staff have increased since
560 World War II. No seminaries existing at the close of World War II have been enlarged physically. The number of clergy has increased between 500 and 600 priests since the close of World War II. The number of faithful is about stagnant. There are about eight
561 million faithful in Yugoslavia. There were around
562 seven million at the close of World War II.

We have about 2½ thousand priests and monks and
563 600 nuns. We have about 300 persons preparing to become nuns and the number of young men in the monasteries preparing for monkhood, about 150. At the close of World War II there were around 1,500 priests and not even 100 nuns. There were practically
564 no young boys or girls preparing for monk or nun rolls. Church congregation in Yugoslavia has income and expenditures according to its budget. The members give offerings and some income is realized by the way of sale of candles and paying of a stole fee on the part of the faithful for various services, such as baptisms and funerals.

The diocese also has its budget. Income for the diocese comes from the congregations and the monasteries.

565 Diocese also has income from the sale of church publications. There are some dioceses which have some land on which there are orchards or vineyards. There are some dioceses which do not have an adequate income and they are aided by the Patriarchate.

Patriarchate has its budget or income and expenses. It has a central shop, something like a small factory, for the making of candles to satisfy the religious needs of the faithful throughout Yugoslavia. Patriarchate also prints what the [sic] call church taxes; stamps, which are fixed to various church documents, such as baptisms or weddings. Patriarchate also has its own print shop which prints various church liturgical worship books. It also has its own bookstore for the sale of these books. Some dioceses are economically strong enough to send revenue to the Patriarchate.

These sources of revenue are inadequate and this is why the church turned to the state and sought from the state that it give to the church in annual compensation for its properties, buildings, homes and lands that were nationalized. The church receives that compensation from the state. Nationalization was performed upon the churches and also upon private individuals. Compensation is also given to other churches and faiths in Yugoslavia. The creation of the diocese
569 is a hierarchical act. (Discussion between counsel and the Court regarding translation of PX 68A).

584 There are extraordinary income sources which are gifts, chiefly from the American and Canadian Diocese. These are sent either through the Patriarchate to the central church or to the diocesan bishops. The World Council of Churches sends specified gifts which range from $35,000.00 to $50,000.00 annually. These gifts come from various members of the World Council of Churches. One man in Waukegan sent a gift

which built a small monastery. The total amount of such gifts from America and Canada could be esti-
587 mated to be around $50,000.00 a year. Patriarch German was elected first President of the World Council of Churches at the last assembly of the World Council. (DX 70 through 70G are marked, counsel states that they are pamphlets and publications.)

588 70G was prepared in December of 1966. It was dis-
589 tributed among our churches and monasteries for sale to tourists who visit Yugoslavia. A large number were sent to our bishops here in America for distribution among the faithful and priests. A portion were sent to other countries like Australia and England. (The court questions counsel as to the purpose of the Exhibits.)

601 PX 68C-1 was prepared by me personally. (Counsel
602 notes that the translation is PX 68C). It is an official act of the Holy Synod of August 12, 1963 directed to
603 Bishop Stefan. This is an exact copy of the original maintained in the archives. In preparing the original
605 of that document I examined the minutes of the assembly held June 8, 1962. It contains an accurate transcription of the minutes.

609 *Cross Examination.*

610 My clerks prepared PX 39C. 44A and 45C were also prepared by my clerks. We have a xerox machine in
611 the Patriarchate. I am not able to say that I prepared photocopies of minutes of the Holy Assembly of Bishops but only photocopies of the documents that were in my hands.

I recognized PX 1, pages 567 through 573 of the Court file, and I recall preparing the documents set
613 out in those pages.

(The Court notes that page 567 is in English, 568, 9 and 70 are in Serbian, 571 and 572 are in English.)

I prepared pages 568, 569 and 570, which are in Serbian language. I can't say that these were made in the office of the Patriarchate in Belgrade. We could have prepared them on the other machine in the Patriarchate. These pages were made at the request of the church for the need of the Courts.

The Eastern Orthodox Church is also known as the Serbian Orthodox Church. When counsel refers to Serbian Eastern Orthodox Church I understand that he is referring to the Serbian Orthodox Church.

There is no provision in the Constitution of the Serbian Orthodox Church which specifies who may or may not have access to the Archives. I do not remember showing any of the original minutes of the Synod or Assembly to any attorney. Attorneys for the parties in this litigation have visited me in Belgrade in my office. Mr. Jenner, Mr. Crown and Mr. Karacic visited me before my departure, at the end of March 1969. I showed them the case where the files are saved and the key for the case. I opened the case in order for them to look at what was inside. I do not remember that I opened any of the books.

The minutes of the Synod and the Assembly are not printed in the official newspaper with the exception of that which the Assembly or Synod directly order printed. It is the duty of the Synod to execute the order of the Assembly.

A clerk to the Holy Synod prepares the material which is to be printed. It is not submitted to the Synod for approval before printing. The name of the official publication is the Herald Official Sheet of the Serbian

Orthodox Church. There is an official and unofficial portion of the Herald (Gaznick) but it can happen that official matters are printed in the unofficial section. Jovan is the archivist of the Holy Synod; he receives mail and enters them in the registry and gives mail to the responsible clerks or myself. His main duty is to expedite mailing. If someone gives him minutes to show to a bishop he can do that under my supervision.

I have testified regarding this case in Waukegan, Cleveland, Akron, South Bend, Lorain. I was involved in trials in Cleveland, Akron and South Bend. I cannot remember whether transcripts of my testimony or depositions have been shown to me, but I allow the possibility that it was shown to me. Some of my testimony was read to me but I don't know if it was in part or in the whole. I remember that my deposition here in Waukegan was read to me and I did sign it. I do not remember the others, but I do not exclude the possibility that in part they were read to me.

Excerpts of the Synod's minutes identified previously were prepared under my direction and control. The minutes are kept under my control. The pages in the Synod's minute book are assigned page numbers, beginning with number 1 in each book. When the minutes are written, it gets its page written and a continuation of the page where it stopped before. The entries in the Synod's minute book are typewritten except for the signatures of the bishops. This is also true of the Assembly minutes.

The minutes of the meeting are put in the book in chronological order, as the sessions were flowing. The books are permanently bound. This is true of the Assembly minutes also. In 1919 all regional churches

were put together with the Metropolitan of Serbia. These church areas had been under the territories of
633 other states and nations. With the creation of the Kingdom of Yugoslavia after the First World War the church regions that were outside of Serbia were put together with the Serbian Orthodox Church. The
634 Metropolitanate of Montenegro joined with the Metropolitanate of Belgrade. Prior to this union the Metropolitan of Montenegro had self governing authority and was in a state that was called Montenegro. This was the Kingdom of Montenegro, separate from the Kingdom of Serbia but after World War I the Kingdom of Montenegro joined the state of Yugoslavia.
635 I cannot testify on what ground the Kingdom of Serbia and Kroatia and Slavania was created. Part of the territory that formed the Kingdom of Yugoslavia had been under the rule of other countries and kings prior to the First World War.

640 A metropolitan is a person and metropolitanate is a diocese that is under the jurisdiction of that metropolitan.

Of the groups forming joining the Serbian Orthodox Church perhaps there were some dioceses that had independent government of their own and they could have been under the jurisdiction of some other church. The Diocese of Bulgaria was under the jurisdiction of Patriarchate of Constantinople at that time. The first
641 king of the Kingdom of the Serbs, Kroats and Slovens was King Peter.

644 The first written Constitution of the Serbian Orthodox Church was 1931. I did not know when the first Assembly meeting occurred. The Assembly had numerous meetings even before 1931. I know the kingdom's name was changed to Yugoslavia, but I do not remem-

645 ber what year. Prior to 1919 the Serbian Orthodox Churches in the United States were under the jurisdiction of the Russian Metropolitante. As far as I know the organized diocese in the United States, as we understand it today and according to the Constitution of the Serbian Church and the Constitution of the Serbian Church and the Constitution of the Diocese of America and Canada, did not exist prior to 1919. The first Serbian clergyman sent to the United States by the Serbian Orthodox Church was Archimandrite Mar-
646 dary. He was sent shortly after World War I ended.
652 Only the American-Canadian Diocese, of the Dioceses of the Serbian Orthodox Church, has a written Constitution. Dioceses in Yugoslavia do not have Sabors composed of members of the clergy and laymen from each parish. The American-Canadian Diocese does have these church peoples Sabors. The dioceses in
653 Yugoslavia compose their diocese and board pursuant to the directives of the Serbian Church Constitution. These dioceses are enumerated in Article 14 of the Serbian Orthodox Church Constitution. In Yugoslavia
654 the diocesan bishop assigns a priest to a parish. The
655 church congregation owns the church property building in Yugoslavia. The Patriarchate owns buildings in Belgrade and some other property on which there exists small churches or chapels. All churches are the property of the church congregations on whose territory they are located. If the diocese has property that would be a small church on its property. I do
656 not recognize PX 2A for identification. I do not recog-
673 nize PX 2A and I do not recognize the original from which it comes. I am familiar with the delegation sent by the Synod in 1962 composed of Damaskan, Metropolitan of Zagreb and Bishop Backa. Their purpose

was to talk with the former Bishop Dionisije about the proposals made by him to the assembly and Synod
674 for upgrading the diocese to Metropolitanate, enlargement of the area of the diocese, and appointment of two or three more bishops. They were to acquaint him about complaints and charges received in the Holy Synod against his person. I had received such charges for storing in the archives prior to the time that the delegation left. The delegation did not take the complaints or copies with them. The delegation was assigned its task by the Assembly. I did not hear Bishop
686 Dionisije refuse to sign the minutes.

Bishops in the Serbian Orthodox Church are judged as a court of first instance by the Holy Synod. They are judged in the last instance by the Holy Assembly. The Assembly can do what its lowest organ can do. Article 90 of the Penal Code refers to which body shall be the court of first instance and which body shall be the court of last instance and the canons of the Ortho-
688 dox Church also speak of this.

The Holy Assembly governs itself according to the canons of the Orthodox Church, by the regulations of provincial Orthodox Church, and later according to the Constitution which is prescribed in the Penal Code. This is cited in the Constitution. I am familiar with Article 70 subparagraph 35A of the Constitution of the Serbian Orthodox Church. That provides that the Holy Synod shall judge in the first instance canonical offenses of a bishop. But it is the right of the Holy Synod to inform the Assembly when the offense is of a more grievous nature and to seek help from the Assembly.

689 I am familiar with PX 17A which was issued on
691 July 6, 1963. I was not present at any time when the

1963 delegation interrogated or examined witnesses. I was present at Shadeland when a woman was giving a hearing. The Commission heard other witnesses after July 6, 1963. I know that Bishop Chrizostom gave a hearing to special clergyman. Bishop Dionisije did not attend this hearing. I do not know whether
692 Bishop Dionisije was invited to attend any of those sessions. I did not act as secretary to this delegation. I was only accompanying them.

693 The '63 Commission made a report which contained new complaints against Bishop Dionisije. With the exception of the informal indictment prepared by the church prosecutor, Bishop Vasilija, these charges or complaints were not sent to Bishop Dionisije. Bishop
694 Vasarion returned in due course after his stay here.
695 No person was appointed as his representative or attorney at the Assembly meeting of July 27, 1963. This is because there is no provision allowing that in the
698 Penal Code. The archives contain all of the documents referred in the excerpt of the July 27 meeting, PX 8A.
699 The meeting occurred, according to the American calendar, on July 27. A partial report of the investigating commission was submitted to the Assembly before it arrived at its decision. I cannot say whether the entries in these minutes are in the order in which the Assembly considered them since I wasn't there.

702 When a meeting of the Holy Assembly is over the minutes are prepared and they would reflect the order in which business was undertaken. This is not necessarily so; there are exceptions. Something can be put into the minutes beforehand which is of greater importance. It also depends upon the secretaries. What is most important is everything that was decided at the meeting is entered in the minutes. The members

of the Assembly can speak about decisions which are published and announced. Pages 10, 11 and 12 referred to on PX 8A, the July 27, 1963 meeting, refer to Bishop Dionisije and the signatures on the minutes appear at pages 18 and 19. Other decisions were made on the intervening pages and I cannot determine from PX 8A what those decisions were. The actual minutes in the archive would reflect that. The Holy Assembly of Bishops did not hear witnesses on July 27, 1963. Courts of the first instance otherwise provided for in the Serbian Orthodox Church's Constitution hear witnesses. The document prepared in Bishop Dionisije's presence, the minutes formulated in Libertyville, was given him prior to the July 27 meeting. These minutes are in the archives. I read it about five years ago. I believe that document contained Bishop Dionisije's surname and his calling but I cannot remember any other details. I think it was written by hand. I do not recall the details of that document. I do not recall whether the document was sent to him only that he was present when the document was prepared. I was not present at the time this occurred.

PX 14A contains a copy of the decision of the Synod appointing the Commission which reported the Assembly on July 27. The two bishops are Chrizostom and Visarion. The four bishops named in PX 8A are not members of an investigating commission but were bishops chosen by the Assembly to investigate or review the case and documents of Bishop Dionisije which had arrived. All four of these bishops voted on the decision made at the July 27 meeting. I cannot recollect who the bishop members of the Synod were six years ago. I cannot recall whether any of the members of the commission were members of the Synod.

It is not provided anywhere that a vote under Article 111 must be unanimous. I delivered the documents to the church prosecutor to prepare the indictment. Numbers were assigned to these documents as they arrived at the Holy Synod. I do not recall the date the first complaint against Bishop Dionisije arrived but it could have been before I became Supreme Secretary in 1960. Each document could bear a number or date indicating when it was received. I recall several charges in which the person who signed them had written "I give this statement under oath." It is not required by the Constitution or Penal Code that the complaints be under oath. I do not recall which complaints were sworn to and which were not.

I recall that in Milwaukee Bishop Chrizostom received and verified complaints from some clergymen. Some of these were in my presence. These were written complaints. I cannot certify whether oral complaints were written down by the investigation commission. I do not recall whether the investigating commission went to Milwaukee before it went to meet with Bishop Dionisije in Libertyville. I do not recall whether the commission received complaints against Bishop Dionisije before or after July 5, 1963. Some complaints were received in Belgrade after the commission returned to Belgrade. I have examined PX 16a, the indictment. Everything that is cited in the indictment is in the archives of the Synod. I presume that the charges were together with the original indictment. Copies of the enclosures referred to in the indictment were not sent to Bishop Dionisije.

PX 16A was read in its entirety at the meeting of the Assembly and the period of time was extended by the church prosecutor. I do not know of my own

735 recollection whether additional charges were added on November 13 and 14 of 1963 I do not recall whether additional charges were added to the original PX 16A prior to the decision of the Assembly in 1964. The judgment recites whether copies of additional charges were sent to Bishop Dionisije.

739 I did not assist Bishop Vasilija in the preparation of the indictment dated October 16, 1963. As far as I know no members of my staff assisted him. He became a clergyman around 1935. He was elected bishop
740 in 1947. He is the President of the ecclesiastical court of his diocese. I do not recall whether he has ever
741 been a member of the Great Ecclesiastical Court.

I was only present when oral testimony was given by
742 a lady at Shadeland against Bishop Dionisije. I do not recall the details of her testimony. The alleged in-
744 cident is in the indictment on page 9 and it occurred August 12, 1951. I do not recall whether any complaint regarding that incident was made to the Serbian Patri-
745 archate prior to 1963. I do not know whether the charge in the next paragraph by Reverend Glochar referring to incidents in 1941 or 1942 came to the Patriarchate prior to 1963.

I don't think Jovan Dutchich was alive in 1963. I don't know when he died. I cannot from the indictment, page 2, determine when Jovan Dutchich made
746 these remarks. There is a document to that effect in the archives but it is not cited in the indictment in its entirety. It is unknown to me whether Dobroslav Jevdjevich referred to on page 3 of PX 16A was alive or dead in 1963. The enclosures to the indictment contain a copy of the newspaper article which is referred
747 to. I never knew the man and I don't know whether he is alive or dead now.

On page 4 of the indictment there is a reference to a letter written dated August 19, 1963 which complains of an instance which occurred in 1953. I do not know
748 whether the Patriarchate received any complaint regarding this incident of '53 prior to the letter to me in 1963. (Witness turns to page 7 of 16A). I think Dushan Silaksi was not alive in 1963. I don't know whether he died in 1950. I do not recall what docu-
749 ments the commission had with them. I don't know how many years have passed since Dushan Silaski died.

750 I see the reference to Bishop Irinej at the bottom
751 of page 22. No member of the Investigating Commission spoke with Bishop Irinej who died prior to 1963. I find reference to Bishop Nickolai on page 23. The
752 Investigating Commission did not talk with Bishop
753 Nickolai. I do not recall that the person who made this complaint showed the Investigating Commission the alleged note. Bishop Nickolai died about July, 1956. This document does not state that any member of the Investigating Commission spoke with Reverend Sava Mikovich in 1963. I think this man is dead; I never knew him. Copies of newspaper articles were attached to the Indictment as an enclosure for consideration by the Assembly. On page 34, I find a reference
754 to an unsigned pamphlet which was among the material considered by the Assembly. I do not recall
755 whether a copy of the newspaper *Free World,* referred to on page 17 was enclosed with the Indictment. I am not familiar with that newspaper.

756 I do not know whether the enclosure #4 referred to in the next paragraph from the University Educated Theologian designates the time, place and who the priest was that Bishop Dionisije allegedly ordained

when he was married with a divorced wife. This enclosure is in the Archives of the Holy Synod. I cannot tell the name of the priest who Bishop Dionisije allegedly ordained by examining the Indictment. I can-
757 not determine the names of the alleged two other candidates in the following paragraph. The Indictment enclosure is in the Archives. See, that document would
758 require a decision by the Synod. The documents that
759 Mr. Jenner examined me on came from the Archives of the Synod.

760 On Page 19 of Exhibit 16, I find the quotation attributed to Bishop Nickolai. That quotation is contained in a memoran[illegible] of Reverend Popovich. The
761 "P35/5" refers to Page #35.5 on the page. The
762 Commission did not determine the address or location of the houses and lots alleged on Page 19 of the Indictment to have been the property of Bishop Dionisije.

763 It was the duty of the Investigating Commission to talk with the person submitting the charges, to establish if they were the persons who were submitting the charges and on the basis of that to certify the accuracy of the charges as submitted. The duty of the Commission is written in the document by which it
764 was appointed. The Commission did not determine the address or location of the houses and lots allegedly owned by Bishop Dionisije. I do not recall that the Holy Assembly did determine the address or location of these houses or lots. Our Constitution permits a Bishop to have his own private property. Article 38
765 of the Constitution provides that a Bishop's funeral expenses and debts will be paid from his real estate and personal belongings.

767 Exhibit #19 is a photocopy of a document which was prepared at my direction and control from the

original in the Archives of the Serbian Orthodox Church. It was received after the date in which it was written.

768 Exhibit PX 20 is a photocopy of an official act contained in the Archives which was prepared at my direction and control. PX 20 is a reply of the Holy Synod to PX 19. I attended the Synod meeting on December 10, 1963 in which the decision reflected in PX 20 was made. I do not have recollection of other business discussed at that meeting. I do not recall who
769 else was present. In the event that I could recall, I could not as a clerk under vow make public what was discussed. I know this meeting lasted longer than
771 usual, but I cannot say how long. I have never been a Court Clerk in the Church Court, and I only know what is prescribed in the Canons, Constitution and Penal Code. Nowhere is there an obligation to submit to the accused the complaints against him. There was a procedure for Church Courts prior to 1961. There was a procedural regulation for the Diocesan Courts but it did not apply to exceptional or extraordinary Church Courts. The former rules of procedure did
773 not apply to a Bishop's trial. When the Penal Code in 1961 became effective, it superceded the previous code. The reference in PX 14 appointing the Investigating Commission refers to Article 67 and 90 of the Penal Code which is PX 69.

777-783 (Conversation and reproduction of documents)

785 At the December 10 Synod meeting, a Professor of Canon Law was called in to be heard as an expert. I cannot recall whether anyone else was called in. As far as I know no member of the Holy Synod talked or conferred with anyone from the Religious Commission on December 10, 1963.

I cannot verify that I received the original of DX 3 for identification in Belgrade. PX 20 was mailed within a few days after it was prepared. I do not know on what date Bishop Dionisije received PX 20. I don't know whether we have a return receipt. There were newspaper articles as enclosures. The last sentence of Paragraph #65 of the Penal Code states "unsigned submissions in no case are or will not be taken into consideration or proceedings." Article #65 of the Penal Code was in force and effect for the years 1963 and 1964. During my absence in July, 1963 the Reverend of the Holy Synod of Bishops, Protodeacon Civan Stefanovich, acted as Secretary to the Synod. I do know that Reverend Stefanovich was present at the December 10 meeting, but I do not recall why. He was the regular Reverend of the Synod and it was not unusual for him to be there. He had access to the Archives.

At the meeting of May 10, 1963 of the Synod, the Synod had before it a copy of the decision of the Holy Assembly made in its morning session which was submitted by the Secretary of the Holy Assembly of Bishops. I believe the Holy Synod met during the pause between the meetings of the Holy Assembly of Bishops on May 10, 1963. The Holy Synod of Bishops did not render any verdict against Bishop Dionisije on the Indictment presented to it. Article #71 of the Penal Code was in force and effect during 1963 and 1964. The Holy Synod rendered its decision by which the entire subject was submitted to the Holy Assembly on February 25, 1964. I attended that meeting of the Synod. I do not recall who was there besides myself and the five members of the Synod. No witnesses were called to give any testimony regarding the complaints and charges against Bishop Dionisije.

PX 16 is the complete Indictment considered by the Synod on that date. Additional charges were added to the Indictment as indicated on Page 12 of the Judgment. I do not recall whether additional charges were added on November 13 and 14 of 1963.

Article 70, sub-section 35b of the Serbian Orthodox Church Constitution was in force and effect in 1963 and 1964. Article #63 of PX 69, the Penal Code, was in full force and effect during 1963 and 1964. Article #69, sub-section 27b of the Serbian Church Constitution was in full force and effect in 1963 and 1964. All of the Penal Code, PX 69, was in full force and effect without changes or amendments in 1963 and 1964. The Constitution was in full force and effect and was changed in that it was amended in 1963 when the American-Canadian Diocese was reorganized and three dioceses formed from that one, and in 1962 when the Assembly decided to temporarily assume and perform the functions of the Patriarchal Council.

I do not recall the names of the members of the Synod on May 10, but PX 1 contains those names. I do not know the names of the members of the Synod on February 25, 1964. The Church prosecutor who prepared the Indictment was Bishop Visilije. Bishop Hrizostom and Bishop Visarion were appointed as the Investigating Commission by the Synod in 1963. Patriarch German, Bishop Damaskin, Bishop Visarion, Bishop Hrizostom, Bishop Valerijan, Bishop Valadislav, Bishop Nikanor, all voted on the judgment on March 5, 1964. No witnesses were heard or examined by the Assembly on March 5, 1964. All the materials and documents referred to in the Indictment were available for examination and review by the Assembly. Documents were available on July 27, 1963.

I was not present at the voting on March 5, 1964. The
813 signatures of all the Bishops appearing on the typewritten excerpts marked PX 22e appear in the original minutes. Article #77 of the Church Constitution was in full force and effect on March 5, 1964. Article
814 #69, sub-paragraphs 27 and 28, state the Judicial Authority of the Holy Assembly. On the basis of the Canons the Assembly can judge in both the first and second instance. Article #57 refers to the authority
815 of the Holy Assembly. Article #63 of the Penal Code refers to the Judicial Authority of the Holy Assembly. When the Holy Assembly acts as Court of the
816 first instance, there is no appeal. An Appeal from a decision of the Holy Synod is to the Assembly. PX 1
818 was prepared under my control and I don't recall whether it was done upon Bishop Firmilian's request or his attorney. A request most likely did come from our Church authorities in America for the need of the Courts here. There have been many requests for documents from the Archives relating to this matter since May, 1963.

820 PX 4, a letter from Bishop Firmilian was received in the office of the Patriarch shortly after the date it bears. The Synod studied this document. PX 3c is
821 the official announcement to Bishop Firmilian about his appointment. I do not recollect if there are any
822 such documents addressed to Bishop Firmilian as Administrator of the American-Canadian Diocese. I did not bring a copy of PX 1 to any of the other Court cases in which I testified. The intended material of
823 three lines is part of the decision of the Holy Synod.
824 The whole decision of the May 10 Synod is set out below the colon on PX 1. The material in PX 1 is
826 the same as in PX 3c. This is the first time that the decision was submitted in its entirety to a Court.

I prepared PX 18a on or about the date it bears. It
827 is an official act of the Serbian Orthodox Church. It is true and correct, but the decisions are only briefly reproduced and it does not follow the same consecutive order. Articles 57 and 64 of the Constitution re-
828 late to amendments. Article 16 refers to the Patriar-
830 chal Council. Articles 81 through 90 of the Constitution refer to the Patriarchal Council. The Constitution became effective through the decisions of the Holy Assembly and in due time it will be submitted to the Patriarchal Council which has not convened for nearly thirty years.

831 The decision to amend the Constitution and divide the American Diocese into three dioceses was not submitted to the Patriarchal Council. The Constitution does grant to each diocese representation upon the
836 Patriarchal Council by the Vice President of the Diocesan Council and one ordained person of the white clergy. Article 82 of the Constitution so pro-
839 vides. PX 68c-1 is the complete decision made by the Holy Assembly relating to their assumption of the duties of the Patriarchal Council. When the
840 Patriarchal Council is convened this decision will be submitted to it. The Patriarch convenes the Patriarchal Council. The decision of the Assembly was forwarded to all Diocesan Bishops. The Holy
842 Assembly did pass a Resolution providing that future Patriarchs will be elected by the Holy Assembly of Bishops and disbanning the Patriarchal electoral assembly. Articles 42 through 52 of the Constitution were affected by that decision. There are three of-
843 ficial dioceses in America. Eastern American-Canadian Midwest American, and Western American, and there is still not liquidated American-Canadian Diocese.

844 I do not consider myself an expert on canonical law.
846 There is a relationship which is maintained by the heads of the autocephalous churches between themselves. The head of one Orthodox Church has no authority over another. There is an obligation for one Patriarch to inform another Patriarch of important events which happen in his church. Each autocephalous church has the authority to rule itself independent of other churches.
849 Somewhere from $35,000 to $55,000 a year is received from people in the United States. That figure includes private donations to individual churches. I know that Bishop Dionisije sent a smaller sum of money to the Patriarchate for the Theological Faculty. I could not guess what percentage of the budget the $50,000 represents. I cannot verify whether the sums from the United States have decreased, but I presume that they are growing.
856 I did not represent the government in any of the nationalization of church lands.
862 In 1939 when I commenced my clerical work the King of Yugoslavia was in existence. The Kingdom of Yugoslavia ended after the close of the Second World War. It was succeeded by a republic where a President was at its head. Agricultural lands, forests, orchards, and all other lands which were church properties, were nationalized. There were two nationalization laws.
881 The name of the government in Yugoslavia is the Federated Executive Council of Federal Socialistic Republic of Yugoslavia. There is a Commission for Religious Affairs of the Federated Executive Council which pertains to all religions in Yugoslavia. I have dealt with this Commission in regard to my official

services as a Clerk of the Court. There were requests
891 from this Diocese for more bishops. As far as I know
892 Bishop Dionisije was not present at any hearings. He was not at any hearings when charges were made against him.

Redirect Examination.

904 When counsel for the plaintiff were in Yugoslavia I did not exhibit any documents to them. I saw you off at the airport when you left Yugoslavia. The documents I brought are true and accurate copies. There
907 is no provision for a representative at a hearing on a
908 bishop's trial. PX 8A contains all of the decisions of
909 the Assembly of Bishops made in its session of July 27, 1963 with respect to the subject matter reported
913 in the exhibit.

An offer of proof by defendant—examination of wit-
915 ness Mladenovich. (Court suggests that counsel state what he offers to prove rather than have the witness testify.) Counsel for defendant states that he offers to prove through this witness that all church property
917 above 10 acres of land was seized, that the committee for religious affairs is notified when guests are expected from the outside and also when churchmen would leave the country to go elsewhere as guests. That one-half of the total amount paid by the federal committee for religious affairs is for pensions and that the federal commission for religious affairs is
920 appointed by the federal executive council. Counsel offers to prove that clergymen are not entitled to attack the government and carry on politically, and
921 that a record is kept of consents given for children to
922 attend religious education classes. That this witness was met by the Yugoslav Council or representative when he arrived in New York City in June, 1963. That

in his files there are requests for more bishops from the American-Canadian diocese but no requests for three new dioceses. Counsel closes offer of proof and
923 the Court rejects the offer.

Redirect Examination continues.

926 Article 60 of the constitution deals with the question of majority or unanimous votes by members of the assembly and synod; 105 also deals with that subject.
929 Articles 3 and 60 of the Penal Code refer to a statute
930 of limitations. Article 66 and 70 refer to the situa-
931 tion where an accused does not submit a reply. Articles that define clerical offenses and penalties are 55, 56 and 57 of the Penal Code. The type of offenses are
932 described in Articles 8 through 45. Articles 2A, 14 and 217 of the constitution deal with clerical offenses and penalties. Article 216 tells what kind of church
935 penalties there are for clergymen. Article 67 of the
936 Penal Code indicates that complaints need not be signed.

937 Offer of proof. Suspension of a diocesan bishop is
938 not a punishment. Offer of proof is closed and rejected by the Court.

The word "enclosure" in the indictment refers to the material which was used as a basis for the writing
941 of the indictment. PX 4D was received after the date it bears in the Patriarchate in Belgrade. The original is in the Archives. The capital letter typing appearing above the letterhead does not appear on the original. The numbers 115 and "11 t" refer to the original
942 letter of which PX 4D is a copy.

943 The first patriarch was Joanikije. I was not a clerk
945 at the patriarchate at the time Bishop Mardary came
947 to the United States. PX 71A was received in Bel-
948 grade. The original is in the Archives. The signature

950 is that of Bishop Dionisije. Zivan Stefanovich became a deacon in Scopia around 1933 or 1934. He was clerical trainee in the church court of that diocese. After a few years he was transferred to the church court of the diocese of Belgrade and having passed the clerical examination he was appointed recorder of that church court. A few years later he was transferred to work in the Holy Synod and later he became a referent of the Holy Synod. He remained at that job until about
951 3 years ago when he was lost. It was unknown where he was located. About a month after his leaving a man by the name of Mooster came to the office of the Synod
955 in Belgrade. I received a card from Father Stefano-
956 vich after his departure from some place in Germany. A letter was received from him directed to Patriarch
957 German. This letter is among the Archives and Rec-
958 ords of the church in Belgrade. I recall something of
959 its content. I don't know where Father Stefanovich is now. He had no relationship with the Serbian Orthodox Church in Yugoslavia or with the Serbian Church in America.

960 On May 10 the Holy Assembly of Bishops recessed
961 and the Synod met during the recess. The Synod meeting occurred before noon. No provision or rule exists
964 preventing investigating bishops from voting on judg-
965 ment. The patriarchal council met once, in the year
966 1936. Members are appointed for 6 year terms. Articles 219 and 220 of the constitution have a relationship with Articles 67 and 90 of the Penal Code.

983 BISHOP NIKANOR ILICICH testified as follows:

Direct Examination.

My name is Nikanor Ilicich and I presently reside in Novi Sad, Yugoslavia. I am a Bishop of the Serbian Orthodox Church. In 1939 I became a priest and after

985 teaching for 17 years in a gymnasium, I was appointed Bishop of Gornji Corvos where I remained until 1951. I was then elected by the Holy Assembly of Bishops as Bishop of Srem with its See in Sremski Karlovci. In 1955 I was elected Bishop of Bachaka and I still serve there today. Since the ordination and election
987 as Bishop I have attended every meeting of the Holy Assembly of Bishops. I was elected to the Holy Synod
988 in 1951 for two years and then in 1959 and for a third time elected last year. The Holy Assembly of Bishops meets once a year shortly after Easter. The subject
989 matter of these meetings are generally legislative, financial, educational and administrative. Canonical regulations require that every Bishop attend all sessions of the Holy Assembly of Bishops and this is
990 also contained in the Episcopal oath which he takes at the time of his consecration. I had occasion to visit the United States in 1962 and this was my first visit. We received a report from the Bishop of the American-Canadian Diocese that, due to the expansive territory, he considered it necessary for this diocese to be elevated to the rank of a Metropolitanate and also proposed that South America and South Africa be annexed to this diocese. The question of the election of from two to three vicor-Bishops was also proposed.
991 I have examined PX 58-A as well as 57-A. 58-A is
992 a communication from Bishop Dionisije to which I just made reference. The Holy Assembly after the receipt of Bishop Dionisije's letter considered and acted upon it. I was present in the meeting and participated in the discussion. The Holy Assembly ac-
993 cepted the recommendation and sent a delegation to the United States. I have examined Plaintiff's Exhibit 72-A and can state I am familiar with the signature on the bottom which is that of the Supreme Secretary of the Holy Synod of Bishops, Archpriest Mladenovich.

995 I have read Plaintiff's Exhibit 73-A and it is signed
996 and sealed by the Secretary of the Holy Synod. It is the commission which I received authorizing my visit
997 to America. The other members of the commission were Metropolitan Damaskin, and Photo-Deacon Bronco Petrovich.

1000 In addition to the written instructions in our commission we received oral instructions from Patriarch
1001 German. The Patriarch told us that there were many letters of complaints about Bishop Dionisije and that we should make an attempt to find out what was going on and talk to the Bishop. The subject matter of these complaints had been discussed in meetings of the Holy Assembly of Bishops. We left for America on September 11, 1962. I believe we arrived in Liber-
1002 tyville on the 18th or 19th. We remained in the
1003 United States for 88 days arriving in Belgrade on the 4th of December. During the visit we traveled
1004 through all of America visiting and participating in various celebrations and had contacts with various groups. In an attempt to carry out our written and oral instructions, for the first several days we stayed at Libertyville and met with Bishop Dionisije. Metropolitan Damaskin and myself were present, but the
1005 deacon was not. Our discussions first dwelt on the size of the diocese and the need for vicar-bishops. We
1006 told him that we would transmit his requests to the
1007 Holy Assembly. In the Serbian Orthodox Church a Metropolitan is only an honorary title. In the Greek Church a Metropolitan usually has several Bishops who work under him and are his assistants.

Bishop Dionisije and I had many discussions concerning these things. We also discussed this matter of a Metropolitanate with the Diocesan Council at Libertyville the day after we arrived. Metropolitan Damaskin told them that under the constitution of the Serbian Church a Metropolitanate of the type that he requested would not be possible, but with regard to any other problems of the church the Patriarchate who would endeavor to accommodate them in any way they could. Other than a general reference to some complaints which had been received in Belgrade, no discussion was conducted concerning the allegations on the conduct and transgressions of Bishop Dionisije. We met the Diocesan Council again on the Patron's Feast day of Bishop Dionisije. After we left Libertyville we visited a number of cities and completed our mission to observe our church-school of congregations in the country.

Offer of Proof—When in Pennsylvania, a gentleman came up to me and said that he had built the church there, and since 1905 had a well organized church congregation. He then said, "Only our leader isn't good." By this he referred to Bishop Dionisije. End of the Offer of Proof.

Other incidents similar to this occurred in other cities. The delegation discussed with Bishop Dionisije these several incidents in Libertyville. As we traveled about the country, we received written complaints as well as the oral ones which we forwarded to Belgrade.

Offer of Proof. To some of the people who made oral complaints we gave instructions concerning drafting a document and mailing them to the Patriarchate. End of the Offer of Proof.

The delegation completed its examinations of the congregations sometime early December of 1962 and then made a report to the Holy Synod of Bishops. The report was submitted in January and the annual meeting of the Holy Assembly was held in April of 1963. The substance of the delegations report was considered by the Holy Assembly during their meeting. Our report was read in full to the Holy Assembly's meeting. In the course of that reading and discussion, we made recommendations to the Holy Assembly that proposals made be accommodated where possible. Another committee was appointed to study the report again and make proposals. This commission made a further report to the Holy Assembly of Bishops. I attended the May 10th meeting of the Holy Assembly of Bishops and the subject of the charges against Bishop Dionisije was taken up first at the suggestion of the Patriarch. Based on the canons, the recommendation was made that the material be given to the Holy Synod of Bishops concerning possible penalties against Bishop Dionisije. Also discussed at this time was the subject of suspension of the Bishop and the reorganization of the American-Canadian Diocese. The Assembly recessed its meeting forwarding this subject to the Holy Synod of Bishops which in turn suspended Bishop Dionisije and appointed Archimandrite Firmilian as his administrator.

The Holy Assembly then voted for a reorganization of the American-Canadian Diocese dividing it into three parts each given a new name; The Mid-Western American which was assigned to Bishop Dionisije, the Eastern American-Canadian and the Western American. Three administrators were appointed: Archimandrite Firmilian, Archpriest Lastavica and Archimandrite Gregory Udicki. It is my

belief that the areas of South America and Africa
1065 were not included in any of these three dioceses, but were assigned to Bishop Sava.

1067 Regarding Plaintiff's Exhibit 57-A, I recall this letter as a report of Bishop Dionisije's arch pastoral work. Proposals contained in this letter were discussed at the afternoon meeting of the Holy Assembly of Bishops on May 10th, 1963.

VERBATIM TESTIMONY

[1071] By Mr. Jenner:

Q. Your Grace, during the course of the afternoon session of the Holy Assembly of Bishops on May 10, 1963, do you have a recollection as to whether or not the Holy Assembly of Bishops, including
[1072] yourself, had in mind and discussed that portion of Bishop Dionisije's report in which he stated that he had divided the American-Canadian Diocese into four Episcopal Districts: The Midwestern, the Eastern, and the Western and Canadian.

Mr. Snyder: Objected to.

The Court: What is the objection?

Mr. Snyder: The objection is what he had in mind and what the Sabor of the Holy Assembly of Bishops had in mind. How is this witness competent to make such statements?

The Court: Overruled.

The Witness: Yes. The Constitution of the Church allows a Diocesan Bishop to divide his Diocese into as many Episcopal Districts as he wishes and we knew that the Diocese had four Episcopal Districts, but that has no connection with the reorganization which is something completely new. That would not prevent us from reorganizing the Diocese regardless of what he had done.

ABSTRACT TESTIMONY RESUMED

1075 All of the meetings of the Holy Assembly of Bishops are closed meetings and only regular diocesan bishops are permitted to attend. Any balloting done
1078 at these meetings is done by secret ballots. The Holy Synod likewise conducts its meetings in secret and consists of the four member Bishops, the Patriarch, who presides, the Supreme Secretary, who is always present, and one or two clerks all of whom are clergy.
1079 The Supreme Secretary of the Serbian Orthodox Church is not permitted in meetings of the Holy As-
1080 sembly. The reorganization of a diocese is a hierarchi-
1082 cal matter. The meeting of 29 July, 1963, considered only the subject of the charges against Bishop Dionisije.

1083 I have read Plaintiff's Exhibit 8-A and was in attendance at the Holy Assembly of Bishops when the course of events and action recited in Plaintiff's Exhibit 8-A took place. This document fairly and accurately reflects what took place on that day in my presence. From my recollection, we began the meet-
1085 ing as usual and then received reports from various committees. There was some discussion concerning Bishop Dionisije that, although he was under suspension, he was celebrating services and had renounced allegiance to the Assembly, the Patriarch, and the Synod. After this a discussion unfolded as to how to proceed with Bishop Dionisije and there were various opinions and then it was voted upon.
1086 At the conclusion of the discussion the subject was voted on and the decision was rendered that Bishop Dionisije be relieved of his duties.

1091 Reverend Hrzistom is the Bishop of Branichevo and Rev. Visarion is the Bishop of Banat. The com-

munique, which is Plaintiff's Exhibit 17-A, was considered during the course of the meeting of the Holy Assembly of Bishops on July 27, 1963.

1097 Plaintiff's Exhibit 74-A, a document I have just read, was considered and discussed during the course of the meeting of the Holy Assembly of Bishops around July 27, 1963.

1098 Plaintiff's Exhibit 75-A is a document dated June 6, 1963, on the letterhead of the Serbian Eastern Orthodox Diocese of the United States of America and Canada at Libertyville, addressed to the Diocesan Council Plenum of the Serbian Orthodox American-Canadian Diocese signed by Bishop D. whose handwriting I recognize. The reading of this document 1099 refreshes my memory that it was considered at the 1100 meeting of July 27, 1963. I did not see this exhibit this is 75-A on July 27, 1963, during the course of the meeting of the Holy Assembly of Bishops, but when we were preparing our materials for the as- 1101 sembly I had occasion to become acquainted with it.

1104 I can identify the signature at the bottom of Plaintiff's Exhibit 760-B as that of Bishop Dionisije and similarly it appears at the foot of page 3 on Plaintiff's Exhibit 76-A.

1105 This refreshes my recollection that Plaintiff's Exhibit 76-A and B were before the meeting of the Holy Assembly on July 27, 1963. The contents of these 1106 exhibits were reported on in the course of that meeting and dicussed by the members of the Holy Assembly. I have read Plaintiff's Exhibit 77-A which is signed on the last page by Supreme Secretary of the Holy Synod of Bishops, archpriest Mladenovich. This document was before the meeting of the Holy

Assembly of Bishops on July 27, 1963, and a discussion ensued with respect to the subject matter in contents.

1111 I have read Plaintiff's Exhibit 78-A and it is signed by the Supreme Secretary of the Holy Synod. In the lower left hand corner of the Exhibit is the statement, "In Monastary of St. Sava on Vivovdan, 1963"; Vivovdan is our national holiday and also a 1112 religious holiday. This document came to my attention prior to the meeting of July 27, 1963, as had Plaintiff's Exhibit 77-A. I had not, however, reviewed any of these documents prior to the meeting of 1113 the Assembly of July 27, 1963. 78-A was presented at that meeting to the Holy Assembly and the content of the subject matter discussed during the course of the day's deliberation.

1114 I have read Exhibit 79-A and can identify the secretary of the Holy Synod of Bishops signature on the last page. This was also presented at the meeting on the 27th of July.

1115 I have read Plaintiff's Exhibit 80-A and it is signed by the Supreme Secretary of the Holy Synod. This 1116 document was similarly presented at the 27th of July meeting.

1117 I am familiar with Plaintiff's Exhibit 8-A and it was presented with the other documents. The report, or Plaintiff's Exhibit 8-A, was read at a meeting of the Holy Assembly of Bishops on July 27, 1963, by 1134 his grace Bishop Stevan of Dalmatia. Following 1136 the reading of the report, a decision was reached by the Holy Assembly with near unanimity that Bishop Dionisije be defrocked and that two new Bishops be elected. There was also declaration of the Midwest American Diocese be declared as vacant.

It is not possible under the constitution of the Serbian Orthodox Church either of 1931 or as amended in 1947 to have more than one Bishop as the diocesan
1138 Bishop for a diocese. Nor is it possible for the Holy Assembly to appoint a Bishop without designating him as Bishop of a particular diocese. Upon selection of Bishop the candidate is required to take an oath of allegiance which is ordered in the Cathedral Church in Belgrade during the ceremony of the con-
1139 secration. In the oath he answers a series of questions and takes an oath on each answer. These included that he will attend every meeting of the Holy Assembly of Bishops that he will submit to the decisions of the Holy Assembly and the Synod, that he will listen to his patriarch and not go into another's diocese, that he will preach the word of God and submit to the Holy Canons, and if any way he fails he submits to judgment. The oath is taken in the presence of the Patriarch and two or three Bishops who are performing the consecration. He is obliged to reduce
1140 this oath to writing with his own hand and then enclose it with other documents after signing it personally. It is then certified by the Patriarch and members of the Holy Synod. In the course of the July 27, 1963, meeting, consideration was given to the fact that Bishop Dionisije had taken such an oath.

1141 I was present at the deliberations of the Holy As-
1142 sembly on March 5, 1964. The indictment was read by the church court prosecutor who was Bishop Vasilije of Zhica in which he related all of the viola-
1143 tions of Bishop Dionisije. Since the commission had returned and reported that the Bishop no longer recognized our authority, each Bishop present was asked individually to express himself as to whether

he held Bishop Dionisije guilty and everyone replied that he was. Each person asked replied that he should be defrocked and so the decision was a unanimous one.

1151 I attended the Holy Assembly meeting held on May 5, 1951. I have read Plaintiff's Exhibit 38-A. I also
1154 attended the meeting held on June 1, 1951. Bishop
1156 Dionisije did not attend these meetings nor any others; however, I recall after having read Plaintiff's Exhibit 40-A that Bishop Dionisije committed his
1157 proxy to Patriarch Vikentije.

1158 After having read Plaintiff's Exhibit 41, I recall that at a subsequent Sabor Bishop Dionisije sub-
1160 mitted another proxy. The same situation occurred during the Sabor 1958. I attended the Assembly
1166 meeting on June 9, 1959.

1170 I have read Plaintiff's Exhibit 48-A and it refreshes my recollection to the extent that Bishop Dionisije was unable to attend the Assembly on this occasion and gave his proxy to Patriarch German. I attended the June 9, 1962 Holy Assembly meeting but have no independent recollection of what occurred.

1171 I have read Plaintiff's Exhibit 56-A and can state that this refreshes my recollection to the extent that Bishop Dionisije sent his annual report and stated that he could not attend the Assembly and sent his
1175 proxy. We discussed at various times the charges against Bishop Dionisije with him. On one occasion in Libertyville near the end of our visit we asked Bishop Dionisije to pay attention to what was happening in the diocese because of the things that were
1176 being said about him concerning his behavior. We told him politely that we were not investigators and informed him in a friendly way. He replied that he

was an American citizen and that anybody who wrote against him or spoke against him would have to prove what they had said.

1177 Upon our return to Belgrade, Metropolitan Damaskin and I prepared a report which was completed in January of 1963 and then was submitted to the Holy Synod of Bishops and which is now in the archives of the Holy Synod. In that report we described 1181 our travels and our arrival in Libertyville, our meeting with the representatives of the Diocesan Council, and of our discussions with Bishop Dionisije concerning his behavior.

VERBATIM TESTIMONY

[1182] The Court: Without the aid of this document, why don't you ask him what he recalls about the discussion.

Mr. Karacic: All right.

Q. Do you recall, your Grace—strike that. We will withdraw that, your Honor. I think he has mentioned he recalls that being in the document.

Your Grace, during the time you were a professor at the Gymnasium, in Yugoslavia, did you have occasion to teach Religion and the Canons and the organization of the Serbian Orthodox Church?

A. Yes.

Q. And are you familiar, your Grace, with the provisions of the Constitution of the Serbian Orthodox Church?

A. Yes.

Q. And in particular with Articles 14 and 15 of said Constitution?

A. I am. Those articles speak of the dioceses which comprise the Serbian Orthodox Church.

Mr. Crown: Your Honor, I hand the witness 68B which is the Serbian Orthodox Church Constitution in Serbian, and I hand your Honor 68 which is the Constitution in English, and I have opened it to the [1183] paragraphs to which Mr. Karacic has reference, 14 and 15.

Mr. Karacic: Q. Your Grace, can you please advise us, in your opinion as an expert, what is the distinction, if any, between those dioceses as mentioned in paragraph 14 of the Constitution as are to be located in the territorial limits of Yugoslavia, and those dioceses as mentioned in paragraph 15 of the Constitution, as to those dioceses located outside the territorial limits of Yugoslavia?

Mr. Snyder: Objected to, if the Court please. In the first place, this has already been passed upon by the Appellate Court in the law on the case. In the second place, this witness has not been by this examination qualified as an expert.

Mr. Karacic: May I address the Court, please?

The Court: Yes.

Mr. Karacic: If the Court please, this matter came up before, and I believe it was your Honor's opinion that this matter was within your purview, and at yesterday's session, I believe Mr. Jenner asked several questions of this witness, and your Honor suggested that if it is his area within the [1184] church, you considered him on questions of his church an expert.

Now, in addition to the qualifications we have tendered on this witness the day before yesterday, we have now asked the other question, if, in fact, he has ever taught the subject of his Church and the particular Canons, and he so testified he had.

The Court: I believe I have already referred to him in my opinion, as an expert in matters of this general type.

Now, as to the question Mr. Snyder raises, that it has been passed upon by our Appellate Court, Mr. Snyder, will you enlighten me on that point?

Mr. Snyder: Yes. The Appellate Court in its opinion has—I can get the opinion and point it out exactly, what it held. They have held, they have interpreted both the Serbian Orthodox Constitution and these particular sections, and the Diocese Constitution, right in the opinion.

Mr. Crown: Your Honor, may I address the Court for a moment? This case was up in the Appellate Court on a motion for summary judgment.

[1185] This is the first time—by this I mean this hearing which commenced in April—this is the first time that the parties had an opportunity to present evidence. There was no evidence presented on this issue in the Appellate Court. The Appellate Court simply had the Constitution before it, without the aid of expert testimony as to its interpretation.

Now, this is new evidence. That's one of the reasons the case was sent back. I suggest that this matter is proper for this Court to consider, new evidence not heretofore presented.

As far as the bare constitution is concerned, without evidence, yes, that was before the Appellate Court, but none of this evidence that will be adduced at this time was before the Appellate Court. It has never been adduced before, and this is one of the reasons this case was sent back for hearing on proper pleadings on the merits.

The Court: It seems to me we had testimony of a like nature previously from the first witness but—

Mr. Crown: We did, your Honor, from—

The Court: But in any event, I am going to overrule the objection. He may testify.

[1186] The Interpreter: May I have the question repeated?

(Pending question read.)

The Witness: A. Our Church, as an institution, is of Divine origin, and all dioceses are in a Canonical and Hierarchical and integral part of the Church in Yugoslavia. That means all dioceses, both those enumerated in Articles 14 and 15, and they are all in Canonical unity with the Church in Yugoslavia. But as concerns their particular positions, this would have to do only with the administrative aspect.

For example, the Diocese of Budim, it has a constitutional structure of administration which dates back to the time of Restrap, and the Diocese of America-Canada had a Church National Assembly, but in all cases, in cases of dioceses like that, the Bishop is still the head of the diocese. He is the administrator. For example, Bishop Visarion of Banat, he administers the Diocese of Timok which is in Rumania, but he has his Surrogate there who only attends to the administrative matters or affairs, but who doesn't have any spiritual or canonical au-

[1187] thority to do anything, if he doesn't have the authorization from his competent Bishop. He doesn't have the right of granting dispensations or any or all the other matters which fall only within the competence of the jurisdictional Bishop, and the spiritual aspects of his authority. That belongs only to the Bishops. The authority of a Bishop is not devisive [sic]. Everything that an administrator does, he does only by authorization.

ABSTRACTED TESTIMONY RESUMED

1182 I am familiar with the constitution of the Serbian Orthodox Church, and articles 14 and 15 enumerate the diocese which comprises the church. Our church
1186 as an institution is of divine origin and all of the diocese are in a canonical and hierarchical and integral part of the church in Yugoslavia. That means all of the dioceses enumerated in articles 14 and 15 are in canonical unity with the Church in Yugoslavia. But as it concerns their particular positions, this would have to do with only the administrative aspect.

1189 *Cross Examination.*

The diocesan council meeting which I attended on September 14, 1962, was the council of the Serbian Eastern Orthodox Diocese of the United States and Canada a religious corporation. The meeting was
1192 held in Libertyville and Nick Stepanovich was seated
1193 at the counsel table during that meeting. Dr. Urof Seferovich was at that meeting.

Metropolitan Damaskin spoke at that meeting and said that the directions to the delegation were to consider three things: (1) the elevation of the American-Canadian Diocese to the rank of Archdiocese Metropolia (2) adding to the American-Canadian
1194 Diocese the territory of South America and Africa (3) election of two or more vicar-bishops as assistants to the legal diocesan bishop. Greetings were extended to us by Nick Stepanovich and Dr. Uro Seferovich. They told us that we could go to Shadeland, Jackson and Libertyville and see the progress made in the last 20 to 30 years.

1195 All of our expenses were paid for by the motion of the diocesan council. We were warmly received

by Bishop Dionisije and given permission to go to all parts of the diocese. Bishop Dionisije also told us that he did not recognize the Macedonian church as an Orthodox Church and he would not recognize bishops as they came here and his congregation would not receive the priests. After being given traveling funds and permission, we went to California and traveled throughout the entire diocese.

1196 I believe that I have already testified as to all the persons with whom I talked with reference to the conduct or actions of Bishop Dionisije. I believe, to the best of my recollection, I talked of the conduct and actions of the Bishop with Dr. Uros Seferovich. I do not know Heirmonk Nikolaj Vazeich nor did I discuss the conduct of Bishop Dionisije with him or the Rev. Vladimir Milinkovich. I did not discuss Bishop Dionisije with Ljubich Milinkovich or the Rev. Ljubisav Djurich. I did discuss the Bishop with the Archpriest Stevan Prostran on the occasion of a
1198 visitation with him in his church and on another occasion when we were visiting him on a private visit.

1206 The only people who ever complained to me about the conduct of Bishop Dionisije were enumerated in my direct examinations. While I was in this country
1208 I made a courtesy call to the Yugoslavian Embassy. I do not know to whom I spoke and was only there for about 15 minutes. I had not seen the Yugoslavian consul prior to my visit to his quarters. Upon my arrival in New York, I was met by the counsel and Bishop Firmilian. After my arrival in Chicago, I
1210 was met at the airport and taken by Father Balach and Bronco Petrovich in a car to the monastery. I did not make any calls to the Yugoslavian consul

but I don't know if the others of the delegation did or not. I was not instructed before departing from Belgrade to make courtesy calls on Yugoslavian consuls in the United States.

In our diocesan meeting held in November, Metropolitan Damaskin thanked his grace Bishop Dionisije for purchasing all of the tickets and schedules and lodgings for our trip around the country.

Metropolitan Damaskin also said at this time that the Bishop's council did not recognize the Macedonian Church because it was a political thing under the regime. He said that they didn't want the government to mix into the church. He stated that he hoped that we understood their reasoning that their constitution shouldn't be altered, as a change in the constitution concerning our diocese would be a starting point for further changes that would be impermissible. He said that no one could foresee the end of it, and that he believed the church would be damaged more than profit from altering the constitution. He further stated that we could make regulations, by-laws, decisions as we wished for the benefit of this diocese and the patriarchate would enjoy and accept it.

The Metropolitan further said that we should not touch the question of the constitution and gave the example that it is known that Bishops of Dioceses are elected and appointed by the Holy Bishop's council and the laymen do not elect or appoint bishops. He stated that if we touched that provision and give the right to laymen then the civilians in the old country would ask for the same right. He further said that if that happened, God save us, for we would know who would be electing and appointing the Bishops in the old country. He told them not

to discuss the questions publicly or through the papers.

At this time Bishop Dionisije stated that at the present time he could not attend sessions of the Holy Bishop council while the atheistic communist regime was governing in Yugoslavia. He further stated that when he sent someone over there he asked that they be received—that he felt that it was his sacred duty to do national and church work in the United States and Canada and that it was not political. He also requested that if there were any charges against him they should be sent to him for an answer and that he wanted to know who was sending them and what they were. The Metropolitan told Bishop Dionisije that he was not punished because of not attending the Bishops' council meetings.

The delegation of which Brkich was a member was not received when it arrived in Belgrade as it was not headed by a Bishop. I do not recall any member of the council saying that it was very clear to everybody that the immigration of the Serbs to this diocese is for the destruction of communism. Nor do I recall someone saying we love and respect our holy church but we hate communism and communists.

Currently in the United States and Canada there are three dioceses. The Bishop of the Western American diocese is Bishop Gregory Udicki who was appointed I believe in 1964. His diocese mainly consisted of California and he was appointed by the Holy Assembly of Bishops who have the sole power to remove him. Bishop Sava Vukovich is the Bishop of the Eastern American and Canadian Diocese who was appointed by the Holy Assembly of Bishops.

To the best of my knowledge the Western American Diocese doesn't have a constitution but uses the

general constitution of the Serbian Orthodox Church which is also valid for it. Similarly, the Eastern
1271 American Diocese and the Midwestern American Diocese have no constitution of their own, but use the constitution of the Mother Church in Belgrade.
1272 The Macedonian Diocese has a constitution but it was not approved by us. Other than the constitution
1274 of the Macedonian church which we did not approve and the forming of the American-Canadian Diocese, there are no other diocesan constitutions in the Ser-
1275 bian Orthodox Church. The Macedonian Church has a Metropolitan.

1276 The American-Canadian Diocese has not been completely liquidated. It remains for the Episcopal Bishop's counsel to arrange the internal affairs and then that will be the end of the American-Canadian Diocese. The assets there disposed of will then be
1277 distributed to the other three dioceses which would include giving Shadeland to the Eastern Diocese, Jackson to the Western Diocese and the Monastery in Libertyville to the Midwest American Diocese.

1278 None of the charges against Bishop Dionisije were ever given to him. I never personally received any letters on this trip about Bishop Dionisije as they were all handled by Metropolitan Damaskin. All of
1280 the charges written and oral, which were received in Belgrade and which the delegation received while here, were taken to Belgrade and none of that was ever given to Bishop Dionisije and when proceedings were initiated all of the material was given to the church prosecutor Bishop Vasilije to prepare an indictment. Father Petrovich was excluded from the meeting of Metropolitan Damaskin and myself when we discussed the complaints about Bishop Dionisije

1281 with the Bishop. We were not ordered by the Patriarchate to exclude the Father. We were required by direction to discuss these things with Bishop Dionisije out of the presence of any other witnesses. These instructions came directly from the Patriarch. There is no requirement in the Serbian Orthodox Church
1282 which requires this and there is no requirement in
1291 the penal code. There was no other commission of the Serbian Orthodox Church which came to the United States of America between the time of my return on December 4, 1962, and May 10, 1963.

1295 It is the usual practice in the Serbian Church to announce in advance who the newly elected Bishops
1296 will be. The Holy Assembly of Bishops make that determination from a list of candidates. And in the
1297 case of Bishop Firmilian and Udicki, this occurred on the 27th of July, 1963. There are a number of names on the list and a candidate waits his turn until he is selected to be made a Bishop. There were other names on the list than Firmilian and Udicki but be-
1298 cause of their qualifications for this region we elected them Bishops. There were about ten names on the list when this selection was made. It is not customary for the Serbian Orthodox Church to announce the names of persons who will be elected Bishops before the actual election. The 1962 delegation of which I was a member was not sent to the United States to summons Bishop Dionisije to Belgrade nor did we at any time ask him to come to Belgrade for the purpose of answering the charges.

1299 The '62 delegation was not appointed under the provisions of the penal code as an investigating body. Prior to leaving Belgrade we did not have an opportunity to see the charges lodged against Bishop Dionisije but were told by the Patriarch that they

did exist and that we should counsel and advise the Bishop orally that he should watch his conduct. After
1300 our arrival Bishop Dionisije asked the Metropolitan if there were any charges brought against him in Belgrade. The Metropolitan replied that there were and they were of a moral nature. Bishop Dionisije then stated that he was an American citizen and requested that those submissions and complaints be
1301 sent to him so that he could reply to them. None of them were sent.

1304 The Holy Assembly of Bishops notified Bishop Dionisije every year of the annual meeting, but none
1305 of those notices ever indicated to the Bishop that he would be punished for failure to attend. Bishop Nastich did not attend any of these meetings for his vicar-bishop. Neither the Bishop of Zica, Nikolai nor
1317 the Bishop of Dalmatia, Irinej ever attended a Holy Assembly of Bishops meeting while I was in attendance.

1318 *Redirect Examination.*

I do not know what the Illinois Religious Corporation is or what Illinois Religious Corporation laws are. The Holy Assembly of Bishops directed the newly elected Bishops and the church national assembly set new boundaries for the three new dioceses.

1319 The Holy Assembly of Bishops at no time subsequent to May 10, 1963, ever took any action or made any decision with respect to the ownership or location of assets or property in the American-Canadian Diocese.

1327 Deposition of METROPOLITAN DAMASKIN:

My name is Gredenicki Damaskin and I am the Metropolitan of Zagreb and am 77 years old. I became a deacon in 1913 and was ordained as a priest
1328 in 1916. I became a Bishop in 1931 although I am

1329 referred to as a Metropolitan which is an honorary office in the Serbian Church and only four bishops have been so honored. A Metropolitan in our church does not have supervision over other Bishops. The patriarch is the highest rank in the Serbian Orthodox Church and a Bishop is elected patriarch by the counsel of Bishops. Bishops in the Serbian Church are elected by the Sabor of Bishops and are consecrated by the patriarch with the assistance of two or three Bishops.

1330 The meetings of the Sabor of Bishops are not in secret, but they are closed to the public and no one can attend except Bishops. Minutes of these meetings are kept and decisions are recorded. The first order of business at the first meeting of the Sabor is the election of two secretaries from its members and they record these proceedings. The minutes are prepared by the office of the Holy Synod of Bishops and are signed at the next meeting by all present members of the Holy Assembly after which the decisions of the Holy Assembly become law. Any vote
1331 which is not unanimous is taken by ballot. The patriarch's vote is no more significant than any other bishop except that in a case of an equally divided vote he casts the deciding ballot. I was a Bishop in
1332 the Serbian Orthodox Church in the United States from 1938 to 1939. I came to lead the diocese in 1938 which had been vacated for three years after the death of Bishop Mardary in 1935. The Holy Synod of Bishops is the executive branch of the Holy Assembly of Bishops. The Holy Synod is elected by the Holy Assembly and is comprised of four Bishops who are members of the assembly at whose head is
1333 the patriarch. The Synod has however a secretary who is not a Bishop and in exceptional cases is not

even a priest. Within the church there is the office of administrator who temporarily administers a parish or a diocese. While in the first case the administrator of a parish is a priest, the administrator of a diocese does not necessarily have to be a bishop.

1334 I was sent in 1938 to the American Diocese by the Holy Assembly of Bishops. Bishops are sent to the diocese only by the decision of the Holy Assembly and the diocese is created by the Holy Assembly of Bishops. Geographical boundaries do not always remain the same and in the past other dioceses have changed boundaries to make administration of the church easier. As the general rule there is one bishop for each diocese but the patriarch could have according to the constitution vicar bishops. These Bish-
1335 ops aid the patriarch and may perform any function which are not connected to the patriarch exclusively. The vicar Bishops are not members of the Holy Assembly and they are responsible to the patriarch. From the time of the death of Bishop Mardary until the time I came to the United States as Bishop, Irinej Gjorgevic, the Bishop of Dalmatia was the administrator of the American-Canadian diocese.

1336 In November of 1939 the Holy Assembly of Bishops elected me for the diocese of Banat in Yugoslavia and I returned to that post. I was succeeded as Bishop of the American-Canadian Diocese by Bishop Dionisije Milivojevich. I do not recall when he was consecrated but prior to that he was vicar bishop of the patriarch.

1337 I returned to America in 1962 in the capacity of president of the delegation of the Serbian Church under the direction of the Holy Assembly of Bishops and the Synod and I was accompanied by Bishop Backa Nikanor and Deacon Bronco Petrovich, clerk

of the diocese of Belgrade. During those 27 years from the death of Bishop Mardary until my return to America the congregations and members of congregants increased as did the problem of administration of the diocese. When Bishop Mardary was diocesan Bishop the parishes were not spread all over the United States but when I returned in 1962 my impression, which I reported to the Holy Synod and Assembly, was that the number of parishes had increased, but I did not know if the increase took place in all parts of the United States.

1339 The Bishop of any diocese administers the parishes in his diocese and it is customary and necessary that the Bishop visit parishes. When I returned in 1962 to the American-Canadian Diocese, I was sent on a particular mission. During the war and afterwards normal relations between our church center with the diocese of America and Canada were interrupted because of circumstances. Besides there occurred certain problems in the diocese of America and Canada which were to be solved. At last the Holy Assembly of Bishops deemed it necessary to send a delegation to solve certain questions which Bishop Dionisije noted himself and also some accusations that had
1340 been lodged against him. The problems of the diocese concerned the increased size and number of parishes in the United States and the possible need of a vicar to the Bishop there and a question of elevating the Bishop of the United States to the rank of Metropolitan. Lastly, there were the questions of the accusations against Bishop Dionisije. Our delegation visited and held meetings with Bishop Dionisije, attended a meeting of the diocesan council, and visited
1341 various parishes in the United States and Canada where we had an opportunity to come into contact with the priests and the people.

[1337] Q. Have you returned to America as representative of the church and in the matters of the church several years later?

A. Yes, I have.

Q. In what capacity and under whose direction?

A. In capacity as the president of the Delegation of the Serbian Church and under the direction of the Holy Assembly of Bishops and the Synod of Bishops.

Q. Did anyone accompany you when you went again to America?

A. Yes.

Q. Who were they and in what capacity?

A. They were Bishop of Backa Nikanor and Deacon Bronco Petrovich, clerk of the diocese of Belgrade.

Q. In what year was that?

A. 1962.

[1338] Q. Which month?

A. From September to November.

Q. During those 27 years from the time of the death of Bishop Mardarije until the time of your second coming to America, did the congregations and the number of congregants increase?

A. Yes.

Q. How did the number of parishes and members through these years increase and did the problem of the administration of the diocese of America and Canada occur?

A. Yes.

Q. Were the parishes during the time of Bishop Mardarije spread all over the United States?

A. No.

Q. When you returned in 1962, was the number of parishes increased so that they were spread throughout the United States?

A. My impression which I reported to the Holy Synod and the Assembly of Bishops was that a number of parishes had increased in the United States and Canada, but indeed, I cannot say whether this increase took place in all parts of the United States.

[1339] Q. Does the bishop of any diocese administer parishes in his diocese?

A. Yes.

Q. Is it customary and necessary that the bishop visit parishes in his diocese?

A. Yes.

Q. Could this be applied to the Diocese of America and Canada?

A. Yes.

Q. When you came back in 1962 to the Diocese of America and Canada, did you come because of some particular mission or missions?

A. Yes.

Q. What were those instructions or what mission?

A. During the war and after the war, normal relations between our church center with the diocese of America and Canada were interrupted because of circumstances. Besides, there occurred certain problems in the Diocese of America and Canada which were to be solved. At last, Holy Assembly of Bishops deemed it necessary to send a delegation to solve certain questions which Bishop Dionisije moved himself and also certain accusations existed against him.

[1340] Q. When you spoke about certain problems presented by the diocese itself, could you tell us what were those problems?

A. It has passed already seven years since that time, but I do remember those problems and they are: Increasing of number of the diocese and bishops in the United States and other parts of America. Election of vicar to the bishops there and the question of elevating the bishop of the United States to the rank of Metropolitan. Lastly, there comes the questions of accusations against Bishop Dionisije.

Q. What have you done in completing these special directives?

A. Our delegation visited Bishop Dionisije and held meetings with him—first with all members of the delegations and later only with the bishops. Next we were present at the meeting of the Diocesan Council where we discussed about all important subjects of the coming of our delegation. We were present at the meeting of the Clergy Brotherhood in order to gain important information, and also we visited great

[1341] number of parishes in the United States and Canada where we decide serving in the churches had an opportunity to come in contact with the priests and people.

Q. Was there first discussion of the delegation with Bishop Dionisije and later with the Clergy Brotherhood at their meeting?

A. First, two of us bishops from the delegation discussed two whole days personally with Bishop Dionisije and then only later we attended in another place the meeting of the Clergy.

Q. Where did you hold the meeting with Bishop Dionisije?

A. In Libertyville.

Q. Who was in attendance?

A. Only three of us bishops.

Q. What subjects did you discuss?

A. Being that previous days at the meeting of the Diocesan Council we discussed about main subjects of our mission, we now at this conference discussed mainly accusations which existed against Dionisije. I did not want to discuss about these delicate matters in front of other people.

ABSTRACTED TESTIMONY RESUMED

1342 In respect to the accusations against Bishop Dionisije, Bishop Nikanor and I alone with Bishop Dionisije told him that at the Holy Synod accusations had been filed against him and that he should try by all means to calm the situation and give no more reasons for any accusations. Bishop Dionisije replied that he wished the accusations to be given to him and he would give his answers. I do not know exactly how the Holy Synod and Assembly learned about the accusations but I think they were received through the mail from certain individuals. The accusations remain today in the archives of the Holy Synod. The authors are mainly members of the church.

1343 While I traveled for three months throughout the United States, I received more detailed accusations from certain individuals as well as from some people in Canada. The sources of these accusations were both parishoners and priests. I do not recall talking to Bishop Dionisije again about these additional accusations. I attended the meeting of the diocesan council in Libertyville. We attended a meeting of the

1344 clergy brotherhood where the principal subjects of discussion were the attacks of priests upon Bishop Dionisije. When the attacks of the priests became more critical Bishop Dionisije left and I explained

to the clergy that I could not attend such meetings in his diocese without his presence. During the early
1345 stages of our visit Bishop Dionisije accompanied us to different churches and parishes; however, later we
1346 went alone. The attacks on Bishop Dionisije were both verbal and written. Upon my return to Yugoslavia I gave a detailed report to the Holy Synod for the Holy Assembly of Bishops. I came here to be a witness voluntarily of my own free will. I partici-
1348 pated in many meetings of the Holy Assembly of Bishops and the Holy Synod while the votes that I cast at these meetings were voluntary and without any pressure.

1349 *Cross Examination*

1350 I was elected Bishop by the Holy Assembly of Bishops for the diocese of Mukacevo in 1931 and from that assembly I received my Episcopal Gramata. However, at that time it was accepted practice in our church that to become a bishop you had to receive permission from the king. I was a Bishop of the American-Canadian diocese in 1938 and 1939. I do not remember if I came to the United States with a diplomatic passport. I sent notice to the priests and
1351 people as well as the messages of the Holy Assembly of Bishops regarding my appointment and arrival. The people received me with no objection. The Holy Assembly of Bishops asked me to accept the appointment as it was not my wish. Prior to my election as Metropolitan of Zagrab, the Holy Assembly asked for my agreement. My duties while in the American-
1352 Canadian Diocese consisted of reorganization and strengthening the diocese. I presided at the Sabor of 1938.

1353 That Sabor was held in accordance with the constitution of the Serbian Eastern Orthodox Diocese of the United States and Canada. The constitution was amended at this Sabor and the Holy Assembly of Bishops in 1939 took action on the American-Canadian diocese constitution. Our directions before com-
1355 ing to the United States in 1962 were partially writ-
1356 ten. I do not know where these written directives which I received in 1962 are today. My report to the
1357 Holy Assembly was very extensive covering 43 pages and only part of it was published. A great part of the report and especially the part which relates to the fall of Bishop Dionisije was not published as it was not deemed appropriate to expose the faults of a bishop. Exhibit A, "The Herald," is the official voice of the Serbian Orthodox Church. Part of my report can be found in it on pages 146-153. I did not send
1359 the negative portions of my report to Bishop Dionisije as it was not my place to do so. I sent my report to the Holy Synod for the Holy Assembly and it was for them to inform Bishop Dionisije. I do not know if anyone ever sent the entire report to Bishop
1360 Dionisije. Officially my delegation was not an investigatory commission but it was understood that our duty was to investigate the situation in the diocese and report about it to the highest church authorities.

1364 The only report which my delegation issued was the one to the Holy Synod. I do not recall whether or not I gave a report to the diocesan council in Libertyville in 1962 when Mr. Stepanovich was a member of the council. I do not recall having made the statement recited in the minutes of the diocesan

council meeting held on November 23, 1972 at Libertyville in which I am reported to have said, "You know that the council; that is the Holy Assembly of Bishops, decided to solve the problems of the diocese. In connection with this, a Sabor has sent three of us here. Your problems are known to us and as you know, there are three: (a) question of the constitution. (b) Question of the vicar-Bishops. (c) Question of the diaspora". I was at the meeting of the Holy
1366 Assembly of Bishops in 1963 held on May 10th. However, I will not state as to how I voted as these are internal matters of the church and we are not allowed to discuss them publicly. Our delegation had a copy of the written accusations against Bishop Dionisije during our stay in the United States of America. I
1367 do not remember exactly the number of accusations. The charges and accusations were not given under oath.

1368 It is customary that the Holy Synod of Bishops sends copies of accusations against an individual to that individual. I do not believe any individual member of the delegation receives charges out of the presence of the entire delegation. I do not know if Bish-
1369 op Dionisije was requested to bring defense witnesses.

1370 I am not authorized by the Serbian Orthodox Church to give information as to the number of orthodox dioceses in America. Similarly I am not authorized to state how many bishops of the orthodox church are in the United States of America right now. As you know there are three legal canonical bishops: Firmilian, Gregory and Sava. Firmilian is
1371 Bishop of the Midwest diocese, Gregory is Bishop of the American Western Diocese and Sava is the Bish-

op of the Eastern Diocese. When I was Bishop of the Serbian Eastern Orthodox Diocese in the United States and Canada in 1938 and 1939 I was not at that time Bishop of any other diocese. At that time the diocese had church courts, diocesan councils, schools and parishes. The See was in Libertyville and was later moved to Chicago. In 1939 and 1938 the diocese
1372 had a constitution.

1373 I do not know if the documents I received in 1962 and 1963 were used as the basis of the accusations against Bishop Dionisije but the Holy Synod had other accusations before it. I do not know if Bishop Stefan sent reports to the patriarchate on the activities in the middle eastern American-Canadian Diocese. I do not know if any one personally witnessed
1374 the giving of the oath to the Holy Synod on February 25, 1964, when the Synod considered accusations against Bishop Dionisije. I do not know if the Holy Assembly of Bishops questioned any of the witnesses under oath who testified against Bishop Dionisije on March 15, 1964, when the Sabor was deciding about the defrocking of the Bishop. I do not remem-
1375 ber who comprised the Holy Synod nor if it was the Court of First Instance in considering the charges
1376 against Bishop Dionisije. I do not recall nor do I feel that I should answer as to whether or not my replacement on May 11, 1963, as a member of the Holy Synod occurred at the beginning or at the end of the session. Two members of the Holy Synod are elected each year and this occurs at the end of the session.

1377 "Glasnik" is the official publication of the Serbian Orthodox Church and on page 224 is the official report about the work of the Holy Assembly in the time of April 25 to May 11, 1963. It also recites that I was replaced in the Holy Synod.

1379 *Redirect Examination.*

1380 It would not have made any difference in 1938 when I was elected as Bishop if the members of the diocese objected to my appointment as only the Holy Assembly of Bishops has the authority to appoint a Bishop.

1382 BISHOP VISARION KOSTICH testified as follows:

Direct Examination.

I was born in 1910 in Temesvar, Hungary. My father was an Arch-Priest in the Serbian Eastern Orthodox Church. At age 5 I enrolled for a year in the Serbian Orthodox School in the town of my birth.
1383 I completed high school in 1928. In 1929 I enrolled in the Theological Faculty of the University of Belgrade from which I graduated in 1933. I studied law in Luzern, Switzerland, but did not complete the school. I was then appointed a professor of a teacher's college and high school for the Serbian Orthodox faith in the Kingdom of Romania. I was made a Monk in November of 1935 and remained at the Monastery until 1937 as a librarian. In 1936 I had been ordained a Deacon of the Serbian Orthodox Church. I went to Athens for post-graduate study and at the start of the war was ordained a Priest-Monk. A Monk takes it upon himself that he will be obedient, live chastely, and in poverty as do Nuns. They need not be ordained. I was ordained and served as a Monk-Priest from 1936 to 1937. From
1386 1936 to 1941 I was a Deacon. In 1947 I was elected a Bishop and will be 22 years this coming Sunday. I was a Vicar Bishop and could not attend or participate at meetings of the Holy Assembly of Bishops which is reserved only for Diocesan Bishops. I first

became a Diocesan Bishop in 1951. All Bishops,
1387 Vicar or Diocesan, are elected by the Holy Assembly of Bishops. I was elected Bishop of the Diocese in Banat, Yugoslavia and I served as a member of the
1388 Holy Synod three times. I was elected at the last session to serve on the Holy Synod of Bishops. Plaintiff's Exhibit 69-A is the Penal Code of the Serbian Orthodox Church which bears the title "The Rules and Procedures for Ecclesiastical Courts of the Serbian Orthodox Church." It went into effect in 1961.
1389 I wrote the Code. I submitted it to the Holy Synod and the Holy Synod submitted it to the Holy Assembly who passed it into law on May 19, 1961, and it went in to obligatory effect on June 1, 1961 and all prior regulations ceased to be effective. It is still in full force and effect.
1390 The only change has been in its title. Among the Bishops it is my attribute, and my preoccupation is church law and church regulations. Many Bishops have specialties. The Holy Assembly of Bishops rely upon me as an expert in Church Law. About June 28
1391 of 1963 I visited the United States as a member of the Holy Assembly and the Synod. (End of Volume 5)

1394 BISHOP VISARION KOSTICH testified as follows:

Direct Examination continued.

I attended a meeting of Holy Assembly of Bishops on July 27, 1963. Prior to my attending that meeting I had visited the United States. The Holy Synod of Bishops entrusted to Bishop Hrizostom and myself, in the capacity of an investigation commission of the assembly, to go to America to seek the then Bishop Dionisije and to give him a hearing. We arrived in

the United States at the end of the month of June in
1395 1963. I attended the regular annual meeting of the Holy Assembly of Bishops in 1963 which began about the 26th of March and ran until the 11th or 12th of May. The regular sessions of the Holy Assembly are summoned during the period between Easter and Pentecost and commence the day after Easter and
1396 close on Pentecost. Part of the agenda of the meeting that year was a request by Bishop Dionisije for additional Bishops and the administrative reorganization of the American-Canadian Diocese. The delegation which came to America in 1962 brought back with it those papers that it was carrying and other material which had arrived to the assembly. All of this together with the material that arrived by mail was submitted to the Holy Assembly of Bishops. The commission to which I made reference consisted of His Eminence Metropolitan Damaskin of Zagreb and His Grace Bishop Nikanor of Bachka. A report of that commission was submitted to the Holy Assembly of Bishops' annual meeting of 1963. The delegation
1397 was not appointed by the Assembly but by the Holy Synod upon the recommendation of the Assembly. I attended the Assembly meeting in June of '62 at which the Synod was authorized to proceed with the
1398 appointment of this commission. Invitations to the
1399 assembly are sent in writing to each bishop. With reference to that assembly meeting in 1963 regarding the report of the commission composed by Metropolitan Damaskin and Bishop Nikanor extensive discussions were held in and out of the meetings. All of the writings were read and discussed. Those were the writings and submissions which arrived in the Synod and also the report of the delegation and other materials which came to the assembly and all written

material having a bearing on the subject. The ma-
1400 terial was entrusted into an assembly committee which reviewed and examined it prior to making a proposal regarding a final decision. Their recommendation was brought to the Plenary meeting of the Holy Assembly on May 10, 1963. Only members of the Assembly are permitted to attend meetings of the Holy Assembly of Bishops. The assembly in case of need invite an expert and hear him on a particular matter, but then they are immediately asked to leave and this very rarely occurs.

1401 Only members of the Holy Assembly of Bishops attended the meeting on May 10, 1963. As is customary, on May 10, 1963, the committee for the agenda of the Assembly proposed two items for the agenda
1402 on that day. The first subject concerned the proposals by Bishop Dionisije and the Church National Assembly concerning reorganization of the Church. The second subject was the offenses of Bishop Dionisije. The Assembly accepted the proposed agenda and began to discuss the second subject of the agenda. Having heard the report of the committee comprised of Metropolitan Damaskin, Bishop Hrizostom, Bishop Vladislav and Bishop Valerijan of Shumadika, the Holy Assembly of Bishops decided to recommend to the Holy Synod that in accordance with the rules and procedure for ecclesiastical courts of the Serbian
1403 Orthodox Church proceedings against Bishop Dionisije be initiated. The Patriarch then recessed the meeting of the Synod immediately to follow. The Synod in its meeting initiated the proceedings against Bishop Dionisije and placed him under suspension of priestly function with a lessening of his remuneration to one half. Later in the afternoon the meeting of the

Holy Assembly resumed and various opinions expressed all of which agreed that the existing diocese be divided. There was no suggestion that the former bishop remain and be assigned Vicars.

VERBATIM TESTIMONY

[1401] Q. Is anyone other than a member of the Holy Assembly of Bishops, even a layman under the special circumstances you have indicated, permitted in the Assembly meeting when the Assembly is actually deliberating something?

A. No.

Q. Were any others than members of the Holy Assembly of Bishops in attendance at the Assembly meeting on May 10, 1963?

A. No.

Q. You have a recollection now, your Grace, of the course of the proceedings of May 10, 1963, of the Holy Assembly of Bishops, and I have in mind the subject matters discussed and the order in which they were discussed and acted upon?

First, do you?

A. Yes, yes.

Q. All right. Now, would you give us the fullest of your present recollection of the course of proceedings that day and the order in which they occurred and the action that was taken by the Holy Assembly of Bishops throughout the day, if you met throughout the day?

A. As is customary, the Committee for the Agen-
[1402] da of the Assembly; that is, the Patriarch, proposed two items for the agenda for that day. As the first subject were proposed those proposals that the part of our Church which is in America be reorganized in accordance with the basis of proposals by Bishop

Dionisije and the Church National Assembly, and those proposals were all cited in the, referred to in the minutes.

And the second subject, the offenses of Bishop Dionisije.

The Assembly accepted the proposed agenda and began to discuss the second subject of the agenda. That is the way it was accepted.

Having heard or listened to the report of the committee which was comprised by Metropolitan Damaskin, Bishop Hriztostom, Bishop Vladislav and Bishop Valerijan of Shumadija, the Holy Assembly of Bishops in its recommendation decided to make a recommendation — I would like here to refer to the use of the word "recommended." "Recommended" does not mean in this case a possibility of an alternative, but a Bishop is not ordered, or a Synod is not ordered, so when the Holy Assembly recommends and uses the expression "recommends," this is a decision that it recommended to the Holy Synod that in accordance with the rules and procedures for Eccle-
[1403] siastic Courts of the Serbian Orthodox Church, to initiate proceedings against Bishop Dionisije.

Then the Patriarch recessed the meeting of the Holy Assembly of Bishops and immediately scheduled to follow that meeting — and scheduled for that meeting to continue in the afternoon, I believe somewhere around 4:30, and requested that the members of the Holy Synod remain so that it could act in accordance with the recommendation of the Holy Assembly of Bishops.

The Synod held a meeting in which it initiated proceedings against Bishop Dionisije, and since the content of the material was such, it placed him under

suspension of priestly functions, with a lessening of his remuneration to one-half.

And then in the afternoon, the meeting of the Holy Assembly of Bishops was resumed, or continued. There were speakers, and taken into consideration, and there were various opinions expressed, but they all agreed that the existing diocese be divided, some thought in two parts, some thought in three, but in no way for the former Bishop to remain, that he be assigned Vicars.

ABSTRACTED TESTIMONY RESUMED

1404 Due to the disagreement a vote was undertaken and a proposal adopted that the then American-Canadian Diocese be divided in such a way that from it the Eastern and Western parts be cut off and that the former diocese be reduced and considered the Mid-western Diocese. This diocese would be further headed by the then Bishop Dionisije.

1405 Because neither the committee nor the Holy Assembly was acquainted with the geographic or demographic arrangements in the United States no definite boundary lines were drawn distinguishing the three
1407 dioceses. It is my opinion that the reorganization of the American-Canadian Diocese by the Holy Assemby of Bishops was a Hierarchical act.

VERBATIM TESTIMONY

[1406] Mr. Jenner: Q. Your Grace, do you have an opinion as to whether the creation of, the reorganization or, or the division of a diocese or dioceses by the Holy Assembly of Bishops is a hierarchical as distinguished from an administrative act?

Mr. Snyder: I am objecting to that, if the Court please.

The Court: What is the objection, Mr. Snyder?

Mr. Snyder: I don't think that that is a canonical answer to a question; I think it is a legal question; it is a conclusion of this witness on a legal question. I think the Courts will decide that, not this witness.

The Court: I rule that the objection is overruled and he may answer.

Mr. Jenner: May we have the full question now, Father? The reporter will read it.

(Question read.)

[1407] Mr. Snyder: Just a minute.

The Court: First ask him to say Yes or No, does he have an opinion.

The Witness: A. Yes, I do.

Mr. Snyder: I would like to add the further objection that the Appellate Court has already passed upon that very question in the law of the case.

The Court: Well, nevertheless, I will allow him in this trial as an expert to give his opinion.

Mr. Jenner: May I, if your Honor pleases, I do not wish to by any silence on my part to accept Mr. Snyder's statement that this is an issue as to which the Appellate Court has fixed the answer by way of law in the case. I am ready to argue fully that point.

The Court: Very well.

Mr. Jenner: Q. What is that opinion, your Grace?

A. Repeat it to me again now.

(Question repeated by the Interpreter.)

The Witness: A. It is purely a hierarchical act.

Mr. Jenner: Q. Would you explain your answer please, and in doing so, cite, if there are, pertinent provisions of the Constitution and Canons?

Mr. Snyder: May my objection stand to this line
[1408] of questioning, your Honor?

The Court: Objection is overruled.

The Witness: A. That right is cited in the Constitution of the Serbian Orthodox Church. The Orthodox Church is an hierarchical church and that is an Episcopal church. The authority in the church belongs to the Hierarchy, both the authority of teaching, so also the authority of the powers of services and the dispensing of the blessings and graces, and so also the authority of government.

The faithful in the church, they are taught by the Hierarchy, they receive from the Hierarchy the gifts of the grace of the Holy Spirit, and the Hierarchy governs over them, all in accordance with the aims of the salvation of man.

But the Hierarchy, the Church in this sense, always takes care of its flock, and insofar as it deems it necessary, exercises that power and authority with the help of the clergy; that is, the priests and other ranks of clergy, and the faithful.

And the Church, the Hierarchy, in executing its rights, calls that or refers to that as the internal hierarchical or spiritual administration, and this belongs exclusively to its own rights and prerogative
[1409] according to the Holy Canons of the Church.

The material aspect of the administration is performed with the help of the faithful as helpers, as witnesses to the proper and correct administration and use of church properties. The entire church property is, and is fundamentally, entrusted to the Bishop who handles or administers that property through his Ecumen, as he is referred to in the ancient canons, that there would be a witness and that there would be no cause for criticism because God forbids some abuse.

As a Bishop, he has his helpers in the persons of priests and deacons. Priests administer over faithful who are entrusted to him in a territory which we call a parish.

The Church Congregation is likewise a gathering of faithful, and it is established for the purpose to provide the material means for the normal life of the church.

The pastor, or rector, because these are his faithful, together with him there, is the honorary president of the church, of the Executive Board of the Church Congregation, but the committee elects from
[1410] its members the President, Vice President, Secretary and so forth, and they all perform their duties within their term of office; that is, they remain at those duties during the term of tenure of their office, which could be for six years, or as long as necessary for them to accomplish their tasks; at least, this is the way these congregations are administered in Yugoslavia.

And they remain on their posts or positions as long as they conscientiously and faithfully execute their duties in administering those belongs of the church, properties of the church, for the benefit of the church and the faithful.

And if the committee refuses to carry out the decisions of higher authorities, or if there should be such disagreements among them which disturb and bring harm to the Church, the committee is dismissed and the priests are summoned by the Bishop's Deputy to make a proposal of names for a new committee.

I made this digression in order to show more clearly the hierarchical character of the Orthodox Church.

ABSTRACTED TESTIMONY RESUMED

The decisions of the Holy Assembly of Bishops determine whether there shall be any dioceses and if any what the geographical territory in each shall be.

There are three steps or ranks in the hierarchy of the Serbian Church; that of deacon, priest and bishop and by the laws of man each of these ranks have again several steps of position of honor.

The title Patriarch is an honorary one given to the Bishop of a Diocese whose territory includes the capitol of the state where the church exists and is therefore the principal see of the church. He has all the rights that other diocesan bishops have but is not an authority over other bishops. He has a vicar bishop who assists him in governing his diocese but he does not have any particular or separate rights other than those which belong to him by reason of the honor accorded to his function as president of the Holy Assembly of Bishops and he holds that title because the assembly is held in his diocese. A Bishop is appointed by all the bishops together and they can judge him and penalize him. In the Assembly of Bishops, the Patriarch has only one vote like every other bishop in the assembly. A bishop who is absent with cause may authorize another bishop to vote for him only in the event that a bishop is going to be elected. All of the decisions are rendered by a simple majority of the bishops present. The church is organized first into parishes which are the church congregations. Then there is the diocese which is led by a bishop and has an ecclesiastical court. The bishop is the judge and he has helpers who assist him in rendering a just decision. For the material needs of the church there is the diocesan council whose president is the

Bishop. The diocesan executive committee executes the decisions of the diocesan council and handles all the affairs of the diocese with regard to material aspects. In the absence of the Bishop, the Vice President presides over those two bodies and all decisions rendered when the Bishop was absent must be submitted to the bishop as the president for his approval. When a Bishop is suspended, a priest is immediately appointed who performs the most necessary church functions until the conclusion of the Bishop's case. If the Bishop is relieved of his duties as diocesan bishop, a priest is appointed to administer the most important matters of the diocese. In our assembly of bishops, a decision has been rendered based on the Holy Canons that the administrator cannot during the time of his administration appoint permanent clergy or give the clergy decorations or give a priest permanent tenure on a parish. He cannot transmit anything from his diocese into another diocese with regard to property. The budget of the diocese and the concluding accounts of the diocese and all lessor decisions concerned with the acquisition and selling depend on the amount in question which is submitted to the Patriarch for final approval. Therefore, so just as in the diocese there are these two areas of administration; that is the internal government and the external for the administrative needs, so also in the church there exists corresponding bodies. The highest body in the church is the Holy Council of Bishops which is an executive organ performing those duties and functions given to it by the Assembly. The Holy Assembly is the legislative, judicial and executive authority in the church. Its executive function is fulfilled through the Holy Synod and material needs are cared for by the Patriarch executive com-

1425 mittee. Metropolitanate system did not exist in our
1426 church after the war. The Metropolitans that exist in the Serbian Orthodox Church today hold that title merely in an honorary role and have no power other
1428 than that as a Bishop. The Holy Assembly does not need the consent of a particular Bishop to reorganize his diocese.

1429 There is no distinction between dioceses in Yugoslavia and dioceses outside of Yugoslavia insofar as the right of the Holy Assembly of Bishops to reorganize them without the consent of the Bishop.

VERBATIM TESTIMONY

[1427] Q. Is the consent of a diocesan bishop required for the reorganization by the Holy Assembly of Bishops of his diocese?

Mr. Snyder: Objected to, if the Court please.

The Court: Read the question.

(The question was read by the reporter.)

The Court: What is the objection, Mr. Snyder?

Mr. Snyder: There are two types of dioceses involved, if the Court please; there's the diocese which we're primarily interested in here now. The Serbian Eastern Orthodox Diocese for the United States of America and Canada and the diocese in Yugoslavia which he talked about at great length and this question
[1428] is referring to all dioceses and I'm objecting to that.

Mr. Jenner: Yes, it does refer to all dioceses.

The Court: First of all, dioceses under the Mother Church, I presume.

Mr. Jenner: That's right.

The Court: I will allow it to be answered on that basis.

(The question was read by the reporter.)

The Witness: It can do this without his consent.

[1429] Q. * * * [I]s there any distinction between dioceses in Yugoslavia and dioceses outside of Yugoslavia insofar as the right of the Holy Assembly of Bishops to reorganize without the consent of the bishops is concerned.

* * *

The Witness: No kind. There is no kind of distinction at all.

ABSTRACTED TESTIMONY RESUMED

1431 Priests cannot be transferred from one diocese to another. However they may move if the priest who wishes to go writes an application to the Bishop of the Diocese where he would like to live and directs a petition to his own bishop. If his Bishop wishes to allow him to go he forwards that petition to the Bishop of the Diocese where the priest would like
1432 to go with a report that he is willing to give this priest a release from his Diocese if the other Bishop is willing to receive him. If it is acceptable to both, then the priest is given a canonical release and may go to the other diocese. A Bishop may not leave his own diocese and then go to another on his own. Only
1433 the Holy Assembly of Bishops may elect a bishop to a diocese and he can be elected to another on the condition that that diocese to which he would like to go is canonically vacant. A Bishop need not be
1437 accepted by a council or other similar body in the Diocese before commencing his duties as diocesan
1438 bishop. Since the Holy Assembly appoints the Bishops as part of its function as supreme body of the church, this applies to all dioceses including the Canadian American Diocese. The Holy Assembly of

Bishops of the Serbian Orthodox Church is charged with the duty and privilege of interpreting the constitution, the canons and the penal code of the Church. No other body whether committee or otherwise has
1439 that privilege and duty. The usual procedures for the election of a Bishop were utilized in the selection of the bishops for the two newly created dioceses in the reorganized American-Canadian Diocese.

VERBATIM TESTIMONY

[1439] Q. You have related to us the matter, the procedures respecting the election and appointment of a diocesan Bishop. My question to you now is: what procedures were followed in the selection and election of the Bishops for the two newly created dioceses and the reorganized American-Canadian diocese?

A. The same.

Q. Were you present on that occasion?

A. Yes, Sir.

Q. Do you recall when that was by way of date?

A. The formation of the new dioceses was on May 10th, and on that day it was confirmed that on the Midwestern American-Canadian diocese remains Bishop Dionisije.

On the next day, on the 11th, for the Eastern diocese, Archpriest Stevan Lastavica was elected, and on the 27th of July, I believe, Bishops Firmilian and Gregory were elected.

Q. Now, who was elected Bishop of the Eastern American-Canadian diocese?

A. Archpriest Stevan Lastavica. I believe he was at that time a priest in Windsor.

ABSTRACTED TESTIMONY RESUMED

1440 When the Holy Synod suspended Bishop Dionisije at its meeting during the recess of the Holy Assembly, they took further action of appointing Archimandrite Firmilian as administrator of that diocese. A diocese cannot separate itself from the Serbian Orthodox Church and declare itself autocephalous. In order for a part of the Mother Church to be proclaimed as autocephalous, it must first fulfill the basic conditions that it is capable of independent, correct ecclesiastic life, church life, and that it is capable of living the independent church life that the church requires. The part of the church wishing to separate must formally seek separation from the
1441 Mother Church and demonstrate that it has at least four Bishops and after the Mother Church has evaluated the justification for the request it may agree to the separation. The four Bishops must have been selected and appointed by the Mother Church through
1450 the Holy Assembly. The Diocesan Bishop of the Serbian Orthodox Church may select, appoint and ordain a priest independently of the Holy Assembly.
1452 A Bishop scrutinizes the candidates who are responding to the need of a particular parish and will appoint one the permanent pastor of that parish. A permanent pastor can be removed from his parish if he does not accept the duties within a period of 15 to 20 days, or if he does not return from a vacation within 15 days after it should have ended, or if his parish extinguished or consolidated with another parish, or if he is penalized with loss of his parish or with transfer. The Holy Assembly of Bishops is not formally informed of the appointment of a priest to a parish. However, in the office of the Patriarchial Executive Committee, an index card of all clergy is kept.

In the administration functioning of a diocese there are no Sabors or Assemblies of clerics or lay people. A distinction exists between dioceses in Yugoslavia and dioceses outside of Yugoslavia regarding the role of laymen-cleric diocesan Sabors. The church in Yugoslavia and the dioceses therein are administered by the regulations of the constitution of the Serbian Orthodox Church while these three dioceses in America are administered by the particular by-laws of their own. The three dioceses in the United States and Canada are subject also to the constitution of the Serbian Orthodox Church. Reorganization of the Canadian American Diocese and the creation of two additional dioceses only affected the ownership of the assets insofar as certain monasteries and churches happened to be in the territory of the respective dioceses. To complete the structure and reorganization, it is necessary that the Bishops of these three dioceses, with their church national assembly, establish boundaries and discuss all other matters which flow from that decision of the assembly concerning the division of that diocese, and that all decisions be submitted to the Holy Assembly to be accepted and approved. Insofar as I know, such a meeting was held but nothing definite was submitted to the Holy Assembly. When I arrived with the delegation in 1963 we advised Bishop Dionisije that we would be in Libertyville on July 5th to hear his response to the charges made against him. We advised Bishop Dionisije that we were coming and what the purpose of our mission was in writing after our arrival in America. We arrived around 11 o'clock in the morning on July 5th at the Monastery. When

we arrived at the Monastery we first went into the Church and after that Bishop Dionisije appeared at the top of the stairs dressed as ready to leave with a hat on his head and he approached us and said "Should I exchange greetings with you or not?" We were escorted outside and sat in our car and about 15 people accompanied us to an Inn which we were told was called the Indian Club. We did not have any baggage when we arrived at the monastery. When we entered the restaurant we told them that this was not usual for such proceedings, but we endured it so as not to be offensive. We asked and sought that those who were accompanying Bishop Dionisije be seated to the side and not attend our discussion with the Bishop. The group sat at a long table by a window and we sat in a booth. We told him that we had come to talk with him about all the accusations and charges against him, but from the very beginning we had the impression that their feelings toward us were of complete indifference. Bishop Dionisije's deportment toward us was similar and he joked and laughed and said that he would not reply to any of our questions if we did not submit them to him in writing and that he would stand on this position. We saw that there was no longer any reason for further official discussion and we proposed that we write minutes concerning the meeting. The Bishop agreed to that and Bishop Hrizsostom began to record the minutes of the meeting. Bishop Dionisije also participated in the writing of these minutes by saying, "Also add this in the minutes that I stand by all those things which I have written and declared concerning those decisions of the Holy Assembly of Bishops." In concluding the minutes Bishop Hrizsostom sought Bishop Dionisije to sign them first since he was the

Sr. Bishop among us. He stated in response "Now I will not sign them" and that is why the place for his signature is left blank. We arose and went into the other part of the hall. We were not accustomed to being mistreated in any way and we could not allow
1464 just anyone to consider us as nothing. They took us by the long table among those who were accompanying him and placed me all the way against the wall near the window and then they began with various types of discussions and stories about what it was like in Yugoslavia and demonstrated how little importance they attributed to our official function. As they posed various types of questions I replied to them and they saw that this was not the type of discussion they were expecting and one by one began to get up and leave with different excuses. In order that Bishop Hrizsostom and I not be the only ones remaining we made our excuses and left.

1465 I have examined PX 82 which is written in the hand of Bishop Hrizsostom of Branichevo and these are
1466 the longhand minutes to which I made reference. I am familiar with the two signatures which appear on the second page just above the certification of the supreme secretary of the Holy Synod and they are the signatures of Bishop Hrizsostom and myself. Fol-
1468 lowing the meeting with Bishop Dionisije, we went to Milwaukee in the company of Archpriest Mladenovich and Bishop Bozo who accompanied us from Yugoslavia. We went to Milwaukee because we re-
1469 quired church quarters to perform our work. When we arrived in this area we did not have lodgings in the monastery because Bishop Dionisije would not accept us. We stayed in a hotel in Gary and from there
1470 came to the meeting with Bishop Dionisije. Hospitality was extended to us in the parish rectory in Mil-

waukee and we went there and used their paper and typewriter and did what we deemed necessary in the interests of the Serbian Orthodox Church. We compiled a communication which we reproduced and sent to parishes throughout the communities in America and Canada. We were aided by our host, Archpriest Father Brkich and Bishop Firmilian and others who happened to be there. PX 17A is that document
1471 which was drafted by myself and Bishop Hrizsostom. It bears my signature and verification with the seal of the Holy Synod of Bishops by the secretary Father Mladenovich. It was originally drafted in longhand and then typed. We left Milwaukee the same day
1472 and went to Aliquippa, Pennsylvania, to visit Bishop Gregory. I eventually returned to Yugoslavia after having consecrated Bishop Stefan. When I returned I was not accompanied by Bishop Hrizsostom. I at-
1474 tended the meeting of the Holy Assembly of Bishops on July 27, 1963, and prior to that meeting I submitted the report and materials that I brought from the United States.

1475 Among the documents I presented to the Synod were the complaints and accusations and announcements and proclamations and various printed materials that we had obtained here. We didn't open these documents because of the declaration of the then Bishop Dionisije that he didn't recognize anything or acknowledge anything of those and they automatically assumed a secondary importance.

VERBATIM TESTIMONY

[1474] In due course, did you attend—did you attend the meeting of the Holy Assembly of Bishops on July 27, 1963?

A. Yes.

Q. Prior to the meeting of the Assembly on July 27, 1963, did you submit anything to the Holy Synod or to the Holy Assembly of Bishops?

A. We submitted all the—that which we brought with us I returned again to the Holy Synod together with our report.

Q. Was your report in writing?

A. Yes.

Q. The communique, as it is so entitled on Plaintiff's Exhibit 17A for identification, was that transmitted to the Holy Assembly of Bishops and/or the Holy Synod?

A. Yes.

Q. Give me your best recollection as to the documents that you had brought to America and which you have just told us you returned to the Holy Synod or the Supreme Secretary. In so doing, you don't have to tell us the details of the contents of the documents, but identify them sufficiently so we know what
[1475] documents you have in mind.

A. First of all, all of the complaints and accusations which the Holy Synod received, and announcements and proclamations and various printed matter which we obtained here, and all of this was returned together.

Those documents which we brought we didn't even open them because of the declaration of the then Bishop Dionisije, that he doesn't recognize anything or acknowledge anything of those and they automatically then assumed a secondary importance, they were no longer a primary matter in this case, and we didn't at that time look at them or read them, but they were all forwarded to the Holy Synod and they were all read in the minutes of the Holy Synod and Assembly.

ABSTRACTED TESTIMONY RESUMED

1476 I was given the floor at the Holy Assembly meeting and I orally told the Assembly and Synod everything we had experienced here in America indicating to the Assembly all those documentations which verified that which I was reporting. The Patriarch took
1477 the floor and brought out the subject matter under consideration and recalled to the Assembly that all of this material was known for quite some time to the members of the Holy Assembly and that now they had become acquainted with newly arrived declarations and statements, circulars and printed things which had bearing on the new stand and position of Bishop Dionisije and that everything was clear and it was necessary that the decision be rendered concerning the subject. Standing, the Patriarch asked the Holy Assembly "Does the Holy Assembly of Bishops consider Bishop Dionisije to be guilty?" The Holy Assembly replied, "He is guilty." Then the Patriarch asked each member individually if he con-
1478 sidered Bishop Dionisije guilty and beginning with the youngest in honor to the last all clearly stated that he was guilty. Then the Patriarch inquired of the Assembly whether they accepted the proposal of the church court prosecutor that Bishop Dionisije be defrocked of his episcopal rank and the assembly responded that it accepted the proposal and again the Patriarch called on each member individually to express himself and each stood and said yes that they accepted the recommended penalty. In order to put an end to all comments the Holy Assembly had to express itself 4 times on that subject, twice concerning the guilt and twice concerning the penalty. The Patriarch then declared Bishop Dionisije defrocked

and returned to the rank of layman. The minutes
1479 were recorded and signed and the business was concluded.

1480 This event took place on the 5th of March in 1964 and I confused the two dates. On the 27th 1963 after it
1481 heard all the reports both oral and written the Holy Assembly of Bishops rendered a decision that Bishop Dionisije definitely be relieved of his duties as Diocesan Bishop of the Midwest Diocese. It proclaimed the Diocese vacant and elected Archimandrite Firmilian to fill that vacant post as diocesan Bishop and that Archimandrite Gregory Udicki be elevated to Bishop for the Western American Diocese. PX 74A, 75A, 76A, 77A, 78A, 79A, 80A, and 81A are familiar to me and they were all presented or read to the Holy
1482 Assembly of Bishops during its meeting held on July 27, 1963.

1485 I have read PX 58A and 4D and can state that the signature appearing on the bottom of each is Bishop Dionisije. Exhibits 58A and 4D were read to the Bishops during the course of the meeting of the Holy Assembly on May 10, 1963. I was not a member of
1486 the Holy Synod in 1963. We had sealed documents in
1488 our brief cases at the Indian Club Restaurant and our meeting with Bishop Dionisije. The documents
1489 contained accounts of things that had happened and which Bishop Dionisije had taken part and had caused the Holy Assembly and Holy Synod to start proceedings against him. Among those documents were complaints that had been received up until that time at the Patriarchate in Belgrade. In our meeting at the
1490 restaurant we never displayed these documents to
1491 him. We did not display them because of Bishop Dionisije's attitude toward us. At the very begin-

ning of our talks the Bishop stated that he did not want to answer anything that was not given to him in writing. We had received instructions to discuss orally these problems with him first and when he refused to do that and added openly and clearly that he did not recognize the decisions of the Holy Assembly and the Holy Synod by that very act he com-
1492 mitted offenses which put him outside of the church.
1493 I believe the indictment against Bishop Dionisije was filed in October or November of 1963. The indictment was considered by the Holy Assembly on March 5, 1964 and I attended that meeting.

1495 A copy of the indictment was delivered to Bishop Dionisije but he did not respond either orally or in writing to that indictment. A communication was received from the Bishop with respect to the indictment and as far as I remember he asked for an extension of the date for reply. As far as I can remember the extension was given to him for that reply. I do not
1496 know if Bishop Dionisije made further reply.

1497 Having read PX 21A at page 19 my recollection is
1498 refreshed and I recall that the subject matter of the return of the indictment by Bishop Dionisije was discussed in the course of the meeting on March 5, 1964. I cannot answer specifically whether Bishop Dionisije's letter of January 25, 1964 was read to the bishops during the course of the meeting on March 5, 1964 but all related documents were read. The decision of
1500 the assembly on that date was signed by all the members who were in attendance that day. It is my opinion that under the constitution, the canons, and the customs and practices of the Serbian Orthodox
1501 Church notice is not required to be given and is not given in the case of the suspension of a Diocesan

Bishop. I believe article 219 of the constitution substantiates this.

Cross Examination.

Prior to May 10, 1963 there were 23 dioceses in Yugoslavia and 3 outside of Yugoslavia. There was a bishop for each of these dioceses. Each diocese is an area within which the faithful live and which is entrusted to the care of one bishop. A bishop is appointed for an unlimited period until one of the reasons which are enumerated in the constitution arises. The Holy Assembly can relieve a bishop if he loses one of the conditions upon which he was elected or if he is in ill health or if he submits a justified application to be retired. This all falls under the heading "To relieve from duty" but there is another term for which someone might be removed and that is the ground of canonical judgment. Section 104 of the Serbian Orthodox Church Constitution relates to the qualifications of a bishop. A bishop is appointed for life subject to one of the conditions under article 111 arising. On May 10th, 1963 there was no *diocesan of Bishop* appointed for the Western American Diocese with its see at Los Angeles. Bishop Gregory Udicki was elected as bishop of that diocese on the 27th of July of 1963 subject to the provisions of article 104 and 111 of the Serbian Orthodox Church Constitution. The word "Sabor" means a meeting of the Holy Assembly of Bishops for the Serbian Church. Bishop Gregory did not attend this year's Sabor but was at the previous one.

Last year's Sabor, 1968, was conducted during the month of May. This year it started on May 12th. Bishop Gregory did not attend this year's Sabor but

gave his reasons in writing. A diocesan bishop was appointed to the Middle Eastern American Canadian Diocese with its see in Detroit. I don't know which diocese that is. When three dioceses have been formed Bishop Dionisije was left in that diocese. I don't recall if that was the name of that diocese at that time. On May 11th, 1963 Bishop Stevan Lastavica was elected as bishop of the Eastern American-Canadian Diocese for life subject to articles 104 and 111. Subsequently he died but I do not recall if a successor bishop was appointed to the middle Eastern American-Canadian Diocese with its see in Detroit. The Bishop that succeeded Stevan Lastavica was Dr. Sava Vukovic. Bishop Sava has attended the Sabor both the previous year and this year. Bishop Sava was appointed to this diocese for life subject to article 104 and 111 of the Serbian Orthodox Church Constitution.

Firmilian Ocokoljich is today the diocesan bishop of the Middle Western American Diocese. He was appointed together with Gregory on July 27th 1963. Bishop Firmilian was appointed for life subject to the provisions of article 104 and 111 of the Constitution of the Serbian Orthodox Church. Bishop Firmilian attended the Sabor of the previous year, that is 1968 but not this year. He gave a written reason for not attending but I do not know what it was. I do not know if Bishop Firmilian attended a Sabor in '64, '65, '66 or '67. I attended the Sabors in '64, '65, '66 and '67. I do not believe Bishop Stevan attended the Sabor during his lifetime. I do not know if Bishop Sava attended any of the earlier Sabors. I only know about '68 and '69. I believe 20 bishops attended the Sabor of 1964. I do not know how many attended in

1965. I do not know how many Bishops were eligible to attend the Sabor in 1965. In 1965 in addition to the Dioceses in Yugoslavia there were two in Hungary and Rumania and there existed three in America. In 1965 I would say there were less than 30 diocesan bishops eligible to attend the Sabor. I believe this would be true for the 1966 and '67 Sabors. I first attended a Sabor in 1952 and have attended all sessions since that time. I knew almost all of the diocesan bishops well during that period. The Bishop I knew least well was Bishop Dionisije. There was no one else that I wasn't well acquainted with during the period.

The Western American-Canadian Diocese is under the Serbian Orthodox Church Constitution and hierarchical respect. It is not under the Serbian Orthodox Church Constitution in the affairs of the external church government. These are affairs which are taken care of by the parochial executive boards and the higher diocesan and patriarchical. The higher diocesan and patriarchical are the diocesan executive board and council and the patriarchical executive board. The patriarchical executive board sits in Belgrade. The Patriarch is chairman and two members of the Synod are members as well as laymen. The laymen are selected from the vice-president of the diocesan executive boards and several are chosen at random. I do not recall how many laymen are on the patriarchical executive board. Article 95 of the Serbian Orthodox Church Constitution describes the diocesan executive board and article 92 describes the patriarchical executive board. The patriarchical executive board handles matters enumerated in article 110. Article 101 speaks generally in regard to matters which are part of the jurisdiction of the patriarchical executive board. The patriarchical council has never considered any matter referred to it by the Western American Diocese. I do not know about the Eastern American Canadian Diocese. The jurisdiction of the patriarchical council is now taken over by the Holy Assembly of Bishops. This was not prior to 1947 but I do not know if it was prior to 1958.

The Sabor would only handle matters formerly handled by the patriarchical council concerning the Western American Diocese if they were of a hierarchical nature. Other than the constitution of the Serbian Orthodox Church the Western American Diocese uses the constitution of the Serbian Eastern Orthodox Diocese of the United States and Canada. It was not necessary that the reorganization of the American-Canadian Diocese be approved by the patriarchical council as the Assembly of Bishops undertook it. The patriarchical council did not approve the reorganization.

The three new dioceses, the Middle Western American Diocese, the Western American Diocese, and the Eastern American-Canadian Diocese occupy all of the territory which formerly comprised the American-Canadian Diocese. A bishop of one of these dioceses does not have authority in any one of the others. The constitution of the Serbian Orthodox Church includes a list of all the dioceses outside Yugoslavia and in article 15 a change was made at the last session of the Holy Assembly in that the names of the Eastern, Midwestern and Western American Dioceses were added as Dioceses within the Serbian Orthodox Church in the spiritual and hierarchical respect. There is no

provision in the constitution concerning one diocese being controlled by a constitution other than the constitution of the Serbian Orthodox Church. Article 15 of the Serbian Orthodox Church constitution was amended at the 1969 Sabor. As far as I know the article had not been changed during the 10 years preceding the Sabor of '69. There is more than one church school congregation in the Western American Diocese. I do not know if they have a Sabor in that diocese. I do not know if any matter has become before the Serbian Orthodox Church Sabor from the Western American Diocese. I do not recall if any matter has come before our Sabor since May 10, 1963 from the Eastern American-Canadian Diocese. I arrived in the United States on June 28th, 1963, arriving in New York. I do not remember where we went on June 29th. We made our stay in the Hotel New Yorker. I don't remember where we went on June 30th. I recall we were at Clarendon, Pennsylvania but I do not recall when that was. I do not recall where I went on July 1st. I do not recall where I was on July 2nd or 3rd although I was in Gary and in Chicago but I do not remember when. I do not remember when I arrived in Chicago exactly. During the period from June 28th to July 4th 1963 we did not make any investigation with reference to the charges made against Bishop Dionisije. I do not remember where I was on July 4th, 1963, but probably in Gary. I am acquainted with Mr. Stepanovich, the diocesan legal counsel but I do not recall when I first met him. I do not recall if I met him at the residence of Father Dusan Popovich in Chicago on July 4th of 1963. We had a meeting with Mr. Stepanovich, Mr. Seferovich and Mr. Marovich in a hotel

room in Chicago. In addition to those three gentlemen Bishop Hrizsostom, myself and some others who I do not remember were present. I believe Father Firmilian was there but I do not recall Father Lastavica or Father Brkich or Milan Drubak being there. I do not recall an attorney from Milwaukee being there. The subjects discussed concern the affairs and situations connected with Bishop Dionisije. There was probably a discussion concerning a Sabor of the American-Canadian Diocese to be held in August of 1963. I do not recall a disclosure to me that the American-Canadian Diocese Sabor of 1960 had delegated to Bishop Dionisije and the Plenum the right to call the Sabor in 1963. I do not recall being told that the original Sabor in 1963 was called for October, but following the difficulties caused by the action of May 10, 1963, the Plenum unanimously voted to advance the date of the Sabor to August. About these matters I recollect nothing. It is possible that a question was asked of Bishop Hrizsostom, "Is our action in calling our Sabor in August legal or not?" I do not recall hearing an answer. I do not recall Mr. Stepanovich directing a question to Father Firmilian, "If the Sabor is legal, Father, then why are you boycotting the August Sabor?" I do not know whether a tape recording was made of that meeting. I do not recall Father Firmilian stating at that time, "I am not boycotting. My Church in Pittsburgh is electing delegates. We don't know whether to elect one or two. We are not boycotting the Sabor." I do not recall that Bishop Hrizostom asked for that meeting. I allow that there might have been a registered letter sent requesting that meeting. I have never heard that there were any written requests by me personally

or to the church to nominate and consecrate Father Lastavica as bishop. I do not recall having stated at that time that there were three candidates for bishop. I do not recall at that meeting in Chicago saying that I had written to Belgrade asking a special emergency Sabor be called, and that I recommended that Father Firmilian and Father Udicki be elevated as bishops. The proposal that Firmilian and Udicki be elevated as bishops was by the patriarch at the proper time. I do not recall having stated at the Sherman Hotel at that meeting that "first order that we had was that there be two administrators and one bishop, Father Lastavica to be bishop." Concerning the statement, "in the meantime when we arrived here and found the climate as it was we wrote to Belgrade and asked for a Sabor to be called and the elevation of two bishops."

We did write and request the Diocese be filled with a bishop. When Steven Lastavica was elected on May 11, it was left then to elect two more for those dioceses which were not filled when Dionisije was relieved. On the 4th of July, 1963, Bishop Dionisije had not been relieved. The only widowed diocese was a newly created diocese of the West, and then Bishop Dionisije was under the bond of service and he was relieved only later. At the time of that meeting we could not definitely talk about anything of that kind, because Bishop Dionisije was still in charge of the diocese and was not to be relieved until the 26th or 27th of that month. Bishop Dionisije was not head of the Eastern Canadian Diocese at that time, July 4, 1963, and no one was in charge. The Diocese was divided into three parts and Bishop Dionisije remained in Midwestern Diocese. Gregory Udicki was administrator of the Eastern American-Canadian Diocese on July 4, 1963. I do not recall that during the meeting at the Sherman Hotel on July 4, that I told Mr. Stepanovich that Bishop Dionisije would not permit me to go to the monastery. I do not recall that Bishop Dionisije ever by word or by letter told me in my delegation that we could not go to the monastery in Libertyville. I believe Mr. Stepanovich at that time in the Sherman Hotel told me, "You come to the monastery at eleven o'clock tomorrow and we will guarantee that there will be no incident."

We went to the monastery the next morning at eleven. When we arrived we went to the church and found a little Monk who was doing something with the candles and we asked him to bring us to someone from the Monastery. I believe he did so. I did not know all the priests who were there, but I remembered Father Radanovich whom I had known in Belgrade. Father Alexandria Dimitrevich was there and I had been his superior in Belgrade. I believe Dr. Seferovich was there, as was Mr. Stepanovich, and probably Mr. Marovich, but I do not recall for sure. It is the custom in the Serbian Orthodox Church for a Bishop to greet another Bishop by kissing him. I do not recall that Bishop Dionisije kissed both of us, but I can recall that he said, "Should I exchange greetings with you?" We exchanged greetings, but I do not know if the greeting was that of a Bishop's kiss to another Bishop as I personally very seldom do that. I do not recall who suggested that we go to the restaurant. We heard that the name of the restaurant was the Indian Club, but I have never heard of the Rustic Manor. While Bishop Dionisije, Bishop Hrizostom, and I were in a private room in the res-

taurant, Mr. Stepanovich came to the door and asked
1562 if he could be of help. I do not recall that later Dr. Seferovich and Father Marstovich likewise came to the door and offered to give us help. I do not recall saying to Mr. Stepanovich, "Bishop Dionisije wants the questions to be directed to him in writing; he is also insisting that the charges be shown to him so that he knows of what he is charged." I believe we deliberated in this room for about a half an hour.
1563 I did not recall that Mr. Stepanovich asked me if I
1563 were author of the Penal Code and my answer was yes to that question. I do not recall Mr. Stepanovich further saying to me that it was strange that even in the Soviet Union or Tito's Yugoslavia whenever you are charged in any matter they tell you what you are being charged with. This occurred after I left the
1565 room in which I had been conferring with Bishop Dionisije. I do not recall if it was Mr. Stepanovich who said to me at that meeting, "You have caused a great confusion among us gentlemen. We are in America; we are in a country where man is innocent until he is proven guilty; we are in a country where every man has his rights, where he has some recourse to protect his rights." I heard this at the July 5, 1963
1566 meeting we are talking about. The Constitution of the
1567 Serbian Church was in effect on July 5, 1963.
1568 The Eastern American-Canadian Diocese does not have a separate constitution. It is under the Serbian Orthodox Church Constitution in the hierarchical and spiritual aspects. It is still under the constitution of
1569 the former American-Canadian Diocese. The Constitution of the American-Canadian Diocese is still
1571 in force and effect. I do not know if any action has been taken since May 11, 1963 by the Holy Assembly

of Bishops in regards to the Constitution of the American-Canadian Diocese. I do not know if the
1572 American-Canadian Diocese has since May 11, 1963 asked for any changes in their Constitution.
1576 I was appointed to the delegation which came to the United States on June 28, 1963, pursuant to provision #67 of the rules and procedures for ecclesiastical courts. This is the Penal Code. Our purpose in coming to America was to verify and investigate the matter, conduct hearings which were deemed necessary and appropriate, and to gather evidence. I do not recall taking testimony of any witnesses in the United States against Bishop Dionisije prior to our meeting with the Bishop on July 5, 1963. I do not
1577 believe we made any investigation of the charges against Bishop Dionisije before our meeting on July 5. I do not recall how many complaints Bishop Hrizostom and I had in our control or possession against Bishop Dionisije on the 5th of July. These complaints were not in sealed containers, but were carried in our briefcases. I do not recall if I had
1578 read the complaints. We probably kept those complaints in the briefcase when we went to the Rustic Manor. I do not recall if I locked the complaints in the automobile outside of the restaurant. I do not recall whether I took the briefcase into the restaurant.
1579 I do not recall whether Bishop Dionisije asked me to see the charges against him on that occasion. The conversation at this meeting was of a general nature because Bishop Dioniisje did not attach any significance to the meeting. I do not recall the conversation
1580 specifically. He probably stated that he did not consider himself Bishop of the Midwest American Diocese. He declared that he did not recognize the de-

cisions of the creation of the new diocese, nor the decisions of the Holy Assembly of Bishops of the Synod, and thereby the creation of the three dioceses. Thereby he put himself outside the Serbian Orthodox Church, and consequently he also officially declared he did not recognize even that he is a Bishop of that
1581 Diocese. We decided no further hearings were necessary with him after he declared all that was previously stated. I do not recall if I conducted any hearings
1582 following my meeting with Bishop Dionisije.

1585 Following the July 5, 1963 meeting, the Delegation did not take any action to verify or investigate any of the charges made against Bishop Dionisije, as it was no longer necessary. I do not recall that the Delegation following the July 5, 1963 meeting conducted any hearings with reference to the charges or conduct of Bishop Dionisije. We did not gather any evidence relating to the charges following that meeting, but received that which was given to us and for which we came. I do not recall what we re-
1586 ceived, nor whom we received it from, nor when we received it.

1588 After the July 5 meeting, we went to Milwaukee and issued an announcement. I then went to Shadeland, Lackawanna, New York, where I elevated Stefan Lastivica to the rank of Protosyngelos, and finally to Aliquippa with Bishop Hrizostom, where we consecrated Lastivica as a Bishop. The rest of my activities during this period are of a private nature. The activities which I just related were one of the objectives of my mission in this country.

1594 No prosecutor was appointed by the Holy Assembly in connection with the charges against Bishop Dionisije prior to July 5, 1963. Article 67 of the

Penal Code was in force and effect on July 5, 1963.
1596 There are no provisions of the Constitution or the Penal Code which requires the examination of an accused in a church building. There was something said about the fact that a large celebration including King Peter was scheduled for the Monastery on July 4, 1963, and that the Monastery would be in disarray and not properly cleaned up in time to receive me and the Delegation in a proper manner.

1597 I do not recall that prior to July 7, 1963, anyone had charged Bishop Dionisije with violating his Bishop's oath or Article 10, 15 and 17 of the Serbian Orthodox Church Constitution. I do not remember
1598 any charges in writing against Bishop Dionisije prior to July 7 with reference to violations of his Bishop's oath or Article in the Penal Code. The
1599 Proclamation of July 6, 1963, is marked as PX 17A and the basis of that Proclamation was the conversation and meeting had with Bishop Dionisije on July 5, 1963. I do not recall that Bishop Dionisije requested members of the Diocesan Council be present while I examined him. I do not recall anyone having
1600 threatened me or any member of the Delegation at the Rustic Manor, but many of them were not courte-
1601 ous towards us. While we were at the Monastery I recall no threats of physical harm against any member of the Delegation. There is no provision in the
1602 Constitution of the Serbian Orthodox Church or the Penal Code which requires that hearings or charges made against a Bishop of that Church be held in secret. Bishop Dionisije probably requested that the attorney for the Diocesan Council of the American-Canadian Diocese be present while we examined him.
1604 Mr. Stepanovich, the legal counsel for the Serbian

Eastern Orthodox Diocese of the United States of America and Canada. Either Bishop Hrizostom or
1607 myself certainly said that Bishop Dionisije could not have legal counsel because this does not exist in the Serbian Church in ecclesiastical litigations. I do not recall if Mr. Stepanovich came into the room and then was asked to leave. Perhaps he was, perhaps he wasn't.

1610 It was not unusual for our Commission to issue a Proclamation to the faithful and all the churches of the diocese prior to making a report to the Holy Synod of Bishops, because we are authorized by the Holy Assembly to do what was necessary with regard to the subject of Bishop Dionisije and to undertake everything we deemed appropriate on location in the interest of the Serbian Orthodox Church and its authority and dignity. Because we established completely that Bishop Dionisije renounced obedience to his Church and refused to comply with all of the decisions of the Holy Assembly and Synod, and had violated his episcopal oath, we felt that Proclation was appropriate. Our written orders briefly
1611 stated the essence of the matter the Delegation was to investigate and other instructions were orally given to the Commission. No one gave us oral authority to issue the Proclamation of July 6, 1963; however, we were authorized to undertake that which we deemed appropriate and we deemed it so appro-
1613 priate. The act in writing given to us gave us general authority to do what was appropriate.

1619 I do not recall that the Diocesan Sabor of the Serbian Eastern Orthodox Diocese of the United States of America and Canada at any time requested a division of the diocese into three parts. I cannot re-

1620 ply with a yes or no as to whether or not Bishop Dionisije or any representative of the American-Canadian Diocese ever requested a division into three dioceses.

1621 The Western American Diocese has a Diocesan Council and an Executive Board, but I do not know if it has an Educational Board. The Western American
1622 Diocese has a Church Court. Everything that applies to the Western Diocese also applies to the Eastern American-Canadian Diocese and the Middle Western American Diocese.

1626 There is nothing in the Constitution of the Serbian Orthodox Church which requires or authorizes the issuance of the Proclamation my Delegation issued on July 6, 1963. Similarly there is nothing in the Penal
1627 Code authorizing such a Proclamation. I believe Bishop Firmilian was present in Milwaukee at the distribution of the Proclamation as was Father Burkich. At
1629 the time I issued the Proclamation of July 6, 1963, in Milwaukee relating to Bishop Dionisije, the Holy Assembly of Bishops had not voted on the guilt or innocence of the Bishop. The Holy Synod had not voted on the guilt or innocence of the Bishop at that time. Neither the Holy Assembly nor the Holy Synod had voted on a punishment for Bishop Dionisi-
1631 je at that time. The charges against a Bishop are submitted to the Holy Assembly of Bishops of the Church and not to the people. Although Article 70 of the Serbian Church Constitution provides that the Holy Bishop's Synod is the Court of first instance for Bishops, this is no longer the case. All Bishops of a Church are judged by all the Bishops of that Church if they are all present in regular session. If they are not, then at least twelve should

come to the session. I was not a member of the Synod in 1963. In 1963 the Constitution stated that in the first instance, canonical offenses of a Bishop are judged by the Holy Synod. That Constitution was in
1632 full force and effect during 1963 and though this was written there it was never applied. PX 63b at Article 70, Section 35, is a portion of the Constitution that I referred to.

At the July 27, 1963, meeting of the Holy Assembly of Bishops, Bishop Dionisije's guilt was not in ques-
1633 tion. At that particular meeting deliberations were not held concerning his guilt or charges, but whether with the subject relating to his violation of his episcopal oath whereby he lost the conditions required for a Diocesan Bishop. No canonical verdict was rendered, but a decision to relieve him of the position in the church. No punishment was given to Bishop Dionisije but measures were taken in the interests
1634 of the church. The Constitution in Article 111 speaks of removal and relief. To relieve a bishop relates specifically to the ceasing of the conditions cited in Article 104. To remove is one thing; to relieve from duty is another.

1635 At the July 27 meeting of the Sabor, all the papers which I had taken back with me were considered. All
1636 of the complaints and charges with reference to Bishop Dionisije were read and circulated at that meeting. Contrary to Article 67 of the Penal Code none of the charges were served upon Bishop Dionisije prior to this July 27 meeting. Proceedings were initiated against him at the meeting of May 10, 1963. The Holy
1637 Synod did not make any finding of guilt or innocence with regard to Bishop Dionisije prior to July 27, 1963,

as this was done at the Holy Assembly meeting on March 5, 1964.

1642 The Penal Code of the Serbian Orthodox Church requires that the charges against an accused specify the time, place and manner of the offense in the Indictment. In the Indictment of Bishop Dionisije which
1644 is Exhibit 16, under the heading "moral picture" the first allegation does not set forth a time or place. It is not necessary. The Assembly had found that from the formal respects everything was in order,
1645 and that was the right of the Assembly. After July 5 it became secondary and that the indictment state the date, time, place and manner of the offense. In the
1646 4th paragraph of this group of allegations, the time and place are not indicated. Under Article 69 of the Penal Code, Paragraph 5, there is a provision which
1647 states "that the Indictment must contain an exact citation of the evidence." I do not know how many of
1652 the alleged accusers in the Indictment were dead at the time that the Indictment was drafted.

Article 69 of the Serbian Constitution provides that the Holy Assembly of Bishops handles appeals of the Holy Synod decisions and is the Court of second instance, or appeals in the case of a Bishop. The Holy Assembly can take it upon itself the privilege of adjudicating a case. Concerning the decision of March
1653 5, 1964, and Bishop Dionisije's right to appeal, every judgment of the Holy Assembly of Bishops, of every provincial Orthodox Church which is rendered by unanimous decision or with few dissents is final. I
1657 recall having said that there was a political agreement involving the Communist Party in Macedonia.

1677 (BISHOP VISARION KOSTICH continued—Volume 7)

When I met with Bishop Dionisije on July 5, 1963, at the Rustic Manor he was the Bishop of the Midwest American Diocese. He did not seek a transfer
1678 to the Midwest Diocese. When I met with Bishop
1679 Dionisije on July 5, 1963,I had never heard or known that a special session of the Holy Assembly of Bishops had been called for the expressed purpose of electing Firmilian to replace Bishop Dionisije.

1680 I met with Nicholas Stepanovich and Dr. Uros Seferovich and Stefan Marovich in the Sherman Hotel in Chicago on the evening of July 4, but I did not state that a special session of the Holy Assembly of Bishops had already been called for the purpose of electing Bishop Firmilian and Bishop Gregory as Bishops.

Redirect Examination.

Everything was confused there. Not a single Bishop can say that such an assembly will be called to elect such a person to Bishop. The summoning of an assembly, if it had reference to the Assembly of July 27, was called after its need appeared after Bishop Dionisije had taken a completely rejective stand as the Church had to take steps to protect its own interests.

1681 I did not know whether a tape recording was made
1682 of the July 4th meeting. Myself and Bishop Hrizostom spoke Serbian and the other conversed in English and then spoke to us in Serbian. I attended the meet-
1683 ing of the Holy Assembly of Bishops on May 10, 1963, and recalled what happened. With particular refer-
1684 ence to the action of the Holy Bishops' Assembly concerning the reorganization of the American Canadian

Diocese and the creation of the Middle Eastern-Canadian, Middle Western and Western Diocese, I am of the opinion that the action of the Holy Assembly of Bishops constituted an amendment of Article 15
1685 of the Constitution of the Serbian Orthodox Church. For a long time after the war the church began to spread and grow and decisions were rendered which themselves constituted amendments to the Constitution. But the formal printing was postponed so that when an accumulation of changes was obtained all those amendments were entered to provide a clean text. The Constitution was printed after these amendments were made in 1947. Even after that, other amendments were made to the Constitution, which up until the present day, have not yet been printed into the present Constitution.

1686 For example, in Article 14, in 1947, a new Diocese was founded called Budimlje-Polimlje. However, in 1946 upon the basis of Article 16 of the Constitution that Diocese was dissolved. But because of that the Assembly did not print the whole Constitution. As another example, in Article 15.4 the present Constitution shows the Diocese of Czechoslovakia Moravia. In 1948 the Holy Assembly released from itself this Diocese and allowed it to enter into the jurisdiction of the Russian Orthodox Church; however, it still appears in this edition of the Constitution.

1687 Under Article 15.6 it shows churches and parishes outside the boundaries of Yugoslavia in what was known as the missionary territory. The Holy Assembly found it necessary to establish in Western Europe a Diocese and take it away from the Patriarch and from his jurisdiction and establish a new Diocese called the Western European and Australian Dio-

cese with the See in London. At our most recent and regular Assembly of Bishops meeting the entire Article 15 was revised.

(Whereupon counsel read from testimony given by the witness at Page 1535 of the transcript.)

1692 I have not mentioned all of the amendments to the Constitution of the Serbian Orthodox Church. On
1693 the May 10 meeting in the afternoon, three Diocese in America were founded and that actually constitutes an amendment to the Constitution. We revised this article completely and instead of point one as it appears, which formerly was the Serbian Orthodox Church of the United States of America and Canada, we cite numbers 1, 2 and 3, the three new Dioceses.

(Argument of counsel.)

1694 On July 5, 1963, when we entered the Church, we
1696 found a Monk. The Church was not in disarray. We
1697 entered a building with a reception hall upstairs and as far as I can recall, there was nothing in disarray. The Bishop appeared at the top of the stairs dressed on his way out and we then followed him. It is uncustomary among Bishops to not be received in the home, but he took us somewhere else. I do not think that the name of the place was "Indian Club." I do
1698 not recall Bishop Dionisije saying why we could not meet with him in his residence. He had his hat on and was dressed to go.

1699 I do not know what the word "corporation" means. I am not acquainted with any of the statutes of Illinois or the regulations of the United States. The
1700 "Indian Club" or Rustic Manor, is a place with various spaces, tables and kinds of trees. There were partitions, benches and tables. We sat in a place which was partitioned completely isolated like in the

theater. We were in a booth as distinguished from
1701 a separate room. I have an opinion as to whether the
1702 indictment complied with the terms and provisions of the Penal Code.

(End of Visarion's testimony, Volume 7, Page 1703).

THE VERY REVEREND MILAN D. BRKICH testified as follows:

Direct Examination.

1703 My name is Milan Brkich and I reside in Chicago.
1704 I am a cleric of the Serbian Orthodox Church. I was born in Markovic, Serbia, Yugoslavia, on September 21, 1909. I was ordained on July 26, 1931, as a deacon
1705 at the Monastery of Rakovich near Belgrade. I was ordained as a priest on July 27, 1931 at the same Monastery. I attended the university and the Theo-
1706 logical School. I arrived in the United States on December 10, 1938, and was first assigned to the parish of Sarrel, Pennsylviania, and after a period of three months was called by Bishop Damaskin to work in the Diocesan Office. Bishop Damaskin was then the
1707 Bishop of the Serbian Eastern Orthodox Diocese for the United States and Canada. Presently, I am work-
1709 in the office of the Mid-West Diocese as Bishop Firmilian's secretary. I was administrative assistant to
1711 Bishop Dionisije for the Mid-West Region of the American and Canadian Diocese. There were other priests in these sections: in the Eastern Part the Very Reverend Dushan Kliment and for the Western Portion Father Vladimir Mivichin.

1714 I have attended all of the Sabors of the Serbian Church except the one held in 1963 which was not le-

gal in the eyes of the Church. My decision not to attend was by the direction of the administrator of the American-Canadian Diocese Archimandrite Firmilian Ocokoljich, as well as my own. I have not at-
1717 tended any Sabors called by Bishop Dionisije since 1963, nor have I been notified as to when those Sabors were to take place. I was sent on an assignment
1718 to Belgrade with two members of the Diocesan Council to see the Patriarch concerning the possibility of having two or three assistant Bishops assigned to our diocese. This matter was discussed in the diocesan council in December of 1961, and February and April of 1962. In the middle of May, I left for Yugoslavia, but the two members of the council did not accompany me. Shortly after my return from Yugo-
1720 slavia I was informed by Bishop Dionisije as to why the other members did not accompany me. The Bish-
1721 op, at his residence, told me that the other two members who were laymen could not go because he, as the Bishop, had been informed by the Patriarch that laymen cannot attend meetings of the Bishops' Synod in Belgrade, nor the Bishops' Council and, therefore, he did not think it would be useful for them to go if they could not explain their reason for coming there. The two individuals who were supposed to accompany
1723 me were Nick Stepanovich of East Chicago, Indiana, and Mr. Stephan Marovich of St. Louis, Missouri.

1724 The two men who served in the Western and the Eastern Regions of the former American and Canadian diocese now serve the newly appointed Bishops of the two new diocese in substantially the same ca-
1725 pacity. In February of 1962, a diocesan council meeting was held at which a discussion concerning the subject matter of the mission of the special delegation to Belgrade was had. Bishop Dionisije repeated once

again that he could not service the diocese in the way it should be because of the large territory which com-
1726 prised it. He stated that he needed assistant Bishops, at least two or three, and we should bring the matter before the Patriarch. Among other things, there was a motion that we should ask for Metropolitanate status for this diocese. Also, South Africa and South America were to be included in this diocese. I believe there was a resolution passed at that time, although I do not recall specifically the points it contained.

1728 Immediately prior to my departure I went to Bishop Dionisije's residence in Libertyville for any final instructions. The only other person present was Archimandrite Dimitrije Balach. I asked the Bishop
1729 who he might have in mind as possible candidates to be elevated to the rank of Bishop. He told me that first was Archimandrite Firmilian, second was Archimandrite Gregory and finally, the Very Reverend Steven Lastavica. I then departed and went to the Patriarchate in Belgrade. While I was there I had occasion to speak with Patriarch German and members of the Holy Assembly of Bishops. I reported to
1733 the Patriarch the three names that Bishop Dionisije had given me as his choice as for Bishops.

1735 Among the duties which I was to perform in Belgrade was to deliver a letter from Bishop Dionisije to the Patriarch. I delivered it upon my first meet-
1736 ing with Patriarch German and I never saw a copy of it.

1737 Bishop Dionisije requested my parish in Milwaukee excuse me as dean of the cathedral to allow me to go to Belgrade, and Plaintiff's Exhibit 83-A is a copy of that letter.

There was a definite understanding here in our diocese that the candidates for Bishops should be among the clergy of the United States and Canada. I related this feeling and opinion that was prevailing here to the Patriarch and some of the Bishops. They completely understood and felt it was natural that this part of the church should be governed by men who are acquainted with the life and conditions that exist in the diocese. During the period that I was in Belgrade, I submitted two reports in writing to Bishop Dionisije.

Plaintiff's Exhibit 84 is a pamphlet prepared by the Right Reverend Bishop Dionisije published by the Eastern Orthodox Diocese in the United States and Canada in Libertyville, in 1965 entitled "Patriarch German's Violations of the Holy Canons and Rules and Regulations of the Serbian Orthodox Church and Tito's Yugoslavia." A translation of my original report is contained in this document at pages 30, 31 and 32. About a month after I returned, I made an oral report to Bishop Dionisije to supplement my written report. The Diocesan Council was present at this time. I reported everything that transpired during the visit to Yugoslavia. I told them that the Patriarch felt as much as we did about our needs and that they were willing to meet our wishes as much as possible. I told him that there was good will on the part of the Patriarchate toward the needs of the people here. I reported further that the Patriarch and Bishops over there felt that since the title Metropolitan in the Serbian Church did not carry any more power but was merely an honor, in order to meet the desires of Bishop Dionisije, the Church in Belgrade would be forced to change the constitution to give the Metropolitan power over other Bishops. I told them further that they felt this was not a good time to touch the Constitution of the Serbian Orthodox Church for the reason that someone else might like to change the church constitution and that it was not in the interest of the church that they initiate any changes. I reported further that the Patriarch and Bishop Basil of Zhica had no objections to the names suggested by Bishop Dionisije as candidates to the new bishops from the states.

The commission headed by Metropolitan Damaskin came to the United States in 1962. They visited me in Milwaukee, but strictly as a social visit and not on their business. The diocesan board met on April 17, 1963, and at that meeting a resolution was adopted which everyone signed including Bishop Dionisije. Exhibit 85 is the English translation of the report of this meeting. I signed the Serbian Original of which Exhibit 85 is a translation in the presence of the members in the council present at that meeting. To the best of my knowledge, the document was then published in the benevolent Srbobran which is the official paper of the Serbian National Federation. I presided on the ninth of May, 1963, at a meeting of the clergy association held in Lorain, Ohio. There were at least two-thirds of the members present at that meeting. Bishop Dionisije attended for about half of the meeting.

A resolution was prepared during the course of the meeting while Bishop Dionisije was present. Plaintiff's Exhibit 85 is a copy of that resolution which was adopted and signed by all those who attended the meeting. Bishop Dionisije was the first signatory on this resolution. During the course of that meeting, the prior meeting of the Diocesan Executive Board, held April 17, 1963, was discussed.

Concerning the resolution which was drafted at that Executive Board meeting, Bishop Dionisije emphasized at that time that no one had the right to accuse him or judge him but his superiors who are the Patriarch of the Holy Synod of Bishops and the Holy Assembly. The Diocesan Plenum which is a body composed of the Executive Diocesan Board and the Church court held a meeting on June 6, 1963, which I attended in Libertyville. Bishop Dionisije also attended that meeting. The subject matter of the meeting was the personal difficulties of Bishop Dionisije as Bishop of the diocese. At this time we had notice of the actions of the Holy Assembly of Bishops that occurred on May 10, 1963. The meeting took place as to what should be done. At this point Archimandrite Firmilian entered the hall, approached the table, and was given a chance to speak. He had in his hands the decision made by the Holy Assembly of Bishops that he was appointed as the administrator of the American-Canadian diocese. He was ordered to take administrative duties from Bishop Dionisije at that time. He read the paper during the meeting and asked Bishop Dionisije to turn over the diocesan administration to him. Bishop Dionisije refused to do so on the ground that he was accepted by the people in the form of the diocesan church council and he could not turn over his duties as diocesan bishop until the church people's assembly was called into session and had a chance to make a decision. He stated that only when the assembly decided would he follow.

Archimandrite Firmilian pleaded with Bishop Dionisije to relinquish control of the diocese and, when he would not, Archimandrite Firmilian stated that

since the Bishop would not obey the highest church authority, he could no longer recognize him as his superior and his Bishop. At this point Archimandrite Firmilian departed along with several of the members and myself included. I stated during the debate that the church is hierarchical and he must be loyal to it. Bishop Dionisije responded that he did not want to leave his duties and that he was appealing to the people to make the decision. Promptly following the meeting, I received a communication from Bishop Dionisije.

Plaintiff's Exhibit 87-A is a one-page document containing the signature of Bishop Dionisije. I received this document personally on June 7, 1963, the day following the meeting. In this letter the Bishop dismissed me as Bishop's deputy for the Midwest states because I supposedly offered my resignation as a member of the diocesan council and the Church Ecclesiastical Court. In fact, I had not offered my resignation.

On Sunday, May 26, 1963, in a *Milwaukee Journal* a statement was made by a high church official and the patriarchate in Belgrade referring to the suspension of Bishop Dionisije and the decision of May 10th. I then went immediately to Libertyville to discuss this matter with Bishop Dionisije. I spoke with the Bishop in the presence of Father Radovanovich. I told the Bishop that he should get together with neighboring priests and officials of the diocese as soon as possible and discuss the matter thoroughly before taking any action on this subject. Bishop Dionisije agreed.

I proposed to the Bishop that the meeting be held the next night which was Monday, May 27th, and he agreed that we should have a meeting that night and

set the time at 7:30 P.M. The meeting was held the
1785 next night at the Bishop's residence in Libertyville. The meeting was attended by Bishop Dionisije, Nick Stepanovich, Dr. Seferovich, Father Milosevich, Father Velimer Kovacevich and myself. Plaintiff's Exhibit 74-A contains the signature of Bishop Dionisije on the third page.

1787 Copies of this communication were on the table in the room when the group entered to hold the meeting. A few days later I received a copy by mail from the monastery. The subject matter on this
1788 circular was discussed during the meeting I had with Bishop Dionisije on the Sunday afternoon before the meeting. Bishop Dionisije had said that he would
1789 not send any circulars to the clergy before the matter was thoroughly discussed. I asked the Bishop why he
1790 did not wait until we met and discussed this matter. He replied: "Did you come to cut my head?" To that Mr. Stepanovich replied, "We did not come to cut anybody's head, but we come as friends to find a solution to our problem."

1791 After a lengthy, heated discussion, Mr. Stepanovich directed a question to the Bishop saying, "Don't you think, your Grace, that this is a time that you resign as Bishop?" Bishop Dionisije replied that if we all thought that he should do it, he would do it, but he didn't know how he would live. We explained to
1792 him how his pension and the diocese would take care of him and provide him with living quarters and then he said, "Proto (that's what he called me), call Firmilian and tell him that I turn over that diocese to him."

1793 Mr. Stepanovich questioned the Bishop as to whether or not he would remain quiet with regard to the official ruling of the Holy Synod. Bishop

Dionisije replied that he would agree to remain silent and not say any more. On May 30, I came to the
1795 Monastery Church in Libertyville with the intention
1796 of serving. I saw Bishop Dionisije in the Church and he told me that the agreement made on Monday, May 27, was off. He said that he would not agree; that he was going to fight.

VERBATIM TESTIMONY

[1785] Q. And was a meeting held the evening of May 27, 1963?

A. It was.

Q. Where was it held?

A. It was held in the bishop's residence.

Q. In Libertyville?

A. In Libertyville.

Q. By "the bishop" you mean Bishop Dionisije?

A. Bishop Dionisije.

Q. Who attended that meeting?

A. This meeting was attended, besides Bishop Dionisije, by Mr. Nick Stepanovich, Doctor Seferovich, Father Milosevich, Father Velimir Kovacevich, myself—

Q. Tell us what occurred at that meeting, giving, to the best of your ability, the course of and nature of the conversation and who said what. And what action, if any, was taken at that meeting.

A. When we entered the building, we found on the large table in the dining room—

Q. Identify "we." Whom do you mean by "we"?

A. We arrived together, almost at the same time, following each other, almost at the same minute the
[1786] cars arrived and we went into the building, opened the door, entered the house and to our surprise we

found already on the table remaining pieces of circular sent by Dionisije which he promised not to do and—

Mr. Snyder: Just a minute, move the answer be stricken, what he promised he would not do and so on.

Mr. Jenner: He said the promise was made by Bishop Dionisije, your Honor.

The Court: Well, frankly, I did not understand what he saw or found on the table.

(The answer was read by the reporter.)

The Court: I will strike the reference to the circular which he promised he would not do.

Mr. Jenner: Plaintiff's Exhibit 74 and 74A.

By Mr. Jenner:

Q. Are you familiar with Plaintiff's Exhibit 74A, Father?

A. Yes, I am.

Q. Directing your attention to the third page, do you recognize the signature there?

A. Yes, I do.

Q. Whose is it?

[1787] Signature of Bishop Dionisije.

Q. Is this the communication to which you have just had reference?

A. Yes, this is the one.

Q. Is this the communication copies of which were on a table in the room when you and Mr. Stepanovich and the others entered?

A. Yes, it is.

Q. When did you first see that document?

A. I saw the table in the dining room of the diocesan residence.

Q. Did you receive a copy of that document in due course?

A. Later, few days later I received copy.

Q. Did it come by mail or was it delivered?

A. It was by mail.

Q. Who mailed it to you, if you know?

A. It was mailed from the Monastery.

Q. Mailed from the Monastery?

A. Right.

Q. Had you prior to seeing copies of this document on the table in the Monastery on the evening to which you refer, discussed with Bishop Dionisije the subject matter of his communicating with the Clergy [1788] and with the faithful of the diocese?

A. I didn't understand the question, sir.

Q. Directing your attention to the Sunday afternoon conference you had with Bishop Dionisije, during the course of that conference, was the subject matter of the transmission of a communication to the Clergy of the diocese discussed?

A. It was discussed.

Q. With Bishop Dionisije?

A. With Bishop Dionisije.

Q. And did he say anything at that time as to whether he would or would not send a communication to the Clergy and the faithful of the diocese? Yes or no.

Mr. Snyder: Objected to.

The Witness: Yes.

Mr. Snyder: Objected to, leading and suggestive.

Mr. Jenner: If your Honor pleases, the witness said he's exhausted his recollection and I am now asking him a question which I respectfully submit is proper.

The Court: Well, I'm not certain you asked whether he exhausted his recollection. Had you done so?

[1789] By Mr. Jenner:

Q. Up until the moment I asked you this last question, had you exhausted your recollection as to what took place and what was said in the Sunday afternoon conference with Bishop Dionisije at the camp grounds at the Monastery?

A. Yes.

The Court: Now he may answer.

Mr. Jenner: Would you put the question, please.

(The question was read by the reporter.)

The Witness: "I will not send anything before we meet and discuss the matter."

By Mr. Jenner:

Q. Now, you were telling us of what occurred and what took place when you and Mr. Stepanovich and the others all simultaneously entered—was it Bishop Dionisije's residence?

A. It was his residence.

Q. And you had reached the point where you said you found or saw copies of Plaintiff's Exhibit 74A on a table in those quarters.

A. Yes.

Q. That's the point you had reached. Would you proceed from there.

[1790] A. We were disturbed—

Q. Father, you can't say you were disturbed. You may say what you said and what the others said.

A. I said to him, "Why didn't you wait?"

Q. To him, is that Bishop Dionisije?

A. Bishop Dionisije.

Q. Was he present in the open room where these papers were on the table?

A. Yes.

Q. And were the others you mentioned?

A. All of them standing around, all around, and I said, "Why didn't you wait until we met and discuss this matter as you have promised?" He then looked at us and said, "Did you come to cut my head?" To that Mr. Stepanovich said, "We did not come to cut anybody's head, but we come as friends to find a solution to our problems."

Then we went upstairs in a room which was used as a library, sat down, and at that time Bishop Dionisije handed over to, I believe, Doctor Seferovich, first a statement made to the American press as his reply to the announcement published the day before.

After reading, Doctor Seferovich carried over that [1791] paper to Mr. Stepanovich; Mr. Stepanovich read the paper and stated:

"If this kind of a statement was done by you," meaning Doctor Seferovich, who was at that time president of the Serbian Defense Council of America, "I would understand it. But not him as a bishop, making a pure political statement."

Discussion developed to the point where we all spoke in rather high-pitched tones which lasted for a long time, maybe an hour, or hour and a half at the least, and finally we calmed down and at that time, Mr. Stepanovich directed the question to Bishop Dionisije, "Don't you think, your Grace, that this is the time that you resign as a bishop?"

Bishop Dionisije said, "If you all think that I should do it, I'll do it." But then he said, "How

should I leave if I should leave?" Then I personally said to him, "Your Grace, the Serbian people will take care of you. This year you will be 65 years, you will have $120 for Social Security, $50 from our President's Pension Fund, and everything that is less than your present salary should be added by the Diocese as a pension and then you may have living
[1792] quarters, whether you like to live in Libertyville, Shade Land, or Jackson, plus when the Investigating Committee should come, we, all of us, will stand before the Investigation Committee and tell them acting as a nation, we considered the things over and there shouldn't be any investigation."

That is the conversation that I responded at that time, and then Bishop Dionisije said to me—

Q. In the presence of the others?

A. In the presence of the others, "Proto," that's what he called me, "call Firmilian and tell him that I turn over that diocese to him."

I asked him where now Archimandrite Firmilian was. I knew that he moved from New York to Pittsburgh, but whether he still is in New York at that moment or in Pittsburgh I did not know. It looked like the Bishop was not himself, either, and it remained open.

And then again Mr. Stepanovich said, "But now, Bishop, how can we trust you? You trampled down all the decisions that were made by so many bodies and your own promises. How can we trust you even
[1793] now that you are going to follow what you just said here? You cannot keep quiet. You always say some things all the time. You can't keep silent."

To this Bishop Dionisije said, "All right, I'll keep quiet as a fish, I won't say anything, I'll keep quiet as a fish, I'll never say anymore." And we accepted this as his—

Mr. Snyder: Move that be stricken. "We accepted this—"

The Court: That part is stricken.

By Mr. Jenner:

Q. What was said by anybody following this statement by Bishop Dionisije?

A. We agreed—

Q. What did you say?

A. I say, "It's fine, we will do it that way."

Q. Did Mr. Stepanovich say anything at that time? What did he say?

A. It was in a way a silent agreement.

Q. Were you the only one that spoke those words?

A. It's hard to recollect all those smaller details after so many years, but this was the general feel-
[1794] ing and agreement.

Mr. Snyder: Objected to and move it be stricken.

Mr. Jenner: If your Honor pleases, the problem of the state of mind of course is not hearsay on the part of Father Brkich and others attending this meeting to the extent of talking. This is not hearsay and that is what he is testifying to.

The Court: I will strike it nonetheless as to it being an agreement.

By Mr. Jenner:

Q. Did Bishop Dionisije keep his word as you have related in his words that night?

Mr. Snyder: Objected to.

Mr. Jenner: May I have the ground of that objection, if your Honor pleases.

The Court: Yes.

Mr. Snyder: Calling for a conclusion.

The Court: Objection sustained.

Mr. Jenner: I beg your pardon?

The Court: I say, the objection is sustained.

I realize it might shorten it up, but there's an objection so the objection is sustained.

Mr. Jenner: All right. Yes.

By Mr. Jenner:

[1795] Q. Have you now exhausted your recollection of the meeting on Monday night?

A. I will say so.

Q. Everybody then left?

A. Yes, we left there about 12:30, after midnight.

Q. What was the next event that occurred?

A. The next event was on May 30, which was Decoration Day.

Q. What happened on that day?

A. On that day I came from Milwaukee with the intention to serve in the church—

Q. What church?

A. Monastery Church in Libertyville. I parked my car to get out with Father Mijatovich and we went into the church building and we saw on our right-hand side Bishop Dionisije sitting in the part of the bench. When I approached that point, he gave a sign to come to him and we were going to him and Father Mijatovich from a certain distance said, "Bishop, bless us." Dionisije answered, "Do you think that I can bless anyone now?" Father Mijatovich said, "If you cannot bless us as a Diocesan Bishop, you can as an older man."

[1796] To this Bishop Dionisije said, "Oh, you consider me now only as an older man." And then looked to me in the face and said, "Proto, there is nothing doing as far as our agreement from Monday, May 27, is concerned."

I said, "What do you mean?"

He says, "No, I will not do that. I will fight." And I asked when—I asked him "When is your Bishop's word ever going to be kept?" And he said, "What are you saying?" And I answered this: "What are you doing?"

And that was the last conversation that I had with him.

Q. That's the last you had with him on that day?

A. I didn't have any conversation with him anymore.

ABSTRACTED TESTIMONY RESUMED

1797 Following the Plenum meeting of June 6, 1963, a commission came to America composed of Bishops Hrizostom and Visarion and Father Mladen Mladenovich. They visited me in Milwaukee and informed me of what they were doing. While at my parish
1798 house they wrote down their findings and decision, but I did not take part in the preparation of that document. Plaintiff's Exhibit 17-A is the document
1799 that was prepared in my parish house and in my presence. It was also executed in my presence by the Bishops who took part in the investigation.

1800 Using my office facilities the document was duplicated and copies were mailed to all congregations and priests. I attended the meeting on July 4, 1963, at the Sherman house where Bishops Hrizostom and Visa-

rion along with others were present. The purpose of this meeting was to try to find a peaceful solution for our church problem. I was present throughout the meeting and no reference to the presence of a tape recorder was made. I did not see a tape recorder at any time.

FATHER MILAN BRKICH, testified as follows:

Direct Examination Continued.

I recall testifying that I attended a council meeting in 1963. It occurred on June 6.

On December 5, 1963, I had the occasion to seek permission to perform an interment ceremony at the Monastery Cemetery. This was with respect to a former parishioner who had died. His name was Milof Jevremovic who died in the beginning of December, 1963. Burial was scheduled for December 5, at the Monastery in Libertyville. When the procession arrived at the Monastery Cemetery, the gate was locked with chains. Family and friends usually make arrangements at the Cemetery. When we arrived at the Cemetery and found the gates locked, I sent a man into the Monastery residence to ask then to unlock the doors so that we could proceed. The messenger I sent returned to the gates. At that time Bishop Dionisije was in the residence at the Monastery; however, no one appeared at the Cemetery gates to open them. I then sent a man into Libertyville to bring a policeman who later arrived. Serving in my capacity as a clergyman, I am well acquainted with the procedure used at the Cemetery at Libertyville. A priest from Chicago, South Chicago, Gary and others had used the Cemetery prior to 1963.

After the Council meeting of June 6, 1963, a change in these long standing procedures occurred. I became acquainted with the changes through a circular which was sent from the Monastery by Archimandrite Dimitrije Balach. At no time prior to June 6, 1963, did I ever find the cemetery gates locked or chained. To my knowledge no other priest of the Canadian-American Diocese had ever arrived at the gates prior to 1963 and found them locked or chained.

We then returned back to Milwaukee with the body and the man was buried on the following Monday in a Milwaukee cemetery called "Good Hope Cemetery." After December 5, I never again attempted to bury anyone in the Libertyville Cemetery. On one occasion between June 6, 1963, and December 5, 1963, I officiated at a burial at the Monastery Cemetery over a man who is a member of the Chetnik organization and there were many people present. The gates were not closed this time.

In addition to the circular, I received knowledge concerning the change in policy at the cemetery from priests in the surrounding area with whom I talked from time to time. Upon receiving the circular I reported this information to my church board. My discussion with other priests concerning the subject matter of the circular occurred on Labor Day in South Chicago when we got together and discussed the matter among ourselves. To the best of my recollection, I received this circular sometime in the end of August in 1963. Of my own knowledge, I know this circular was distributed to other priests in the area.

The new policy as stated by the circular was that priests who no longer held allegiance to Bishop Dionisije would not be allowed to enter the Monastery grounds and specifically the cemetery.

I have examined Plaintiff's Exhibit 88 and 88-A and can state that I received both of them by mail. As this document is dated July 15, 1963, it is my belief that I received it a day or two later. I find this translation from Serbian to English is an accurate one based on my examination. I received the Serbian copy in the mail.

In my official capacity as the dean of the Cathedral of Milwaukee I had occasion to receive the communication dated August 1963, identified as Plaintiff's Exhibit 89 entitled "GERMANOS BY THE GRACE OF GOD, ORTHODOX ARCHBISHOP OF PEC, METROPOLITAN OF BELGRADE-KARLOVICI AND THE SERBIAN PATRIARCH." This communication was from the Patriarchate. In examining Exhibit 89, I compared it with my mental recollection of the original which was in Serbian and which I remember very well. I did not prepare Exhibit 89 and I have no knowledge as to who did prepare it.

I have examined Plaintiff's Exhibit 90-A and can state that I received this during the month of September of 1963. The document was sent to me by mail from Libertyville, Illinois.

Cross Examination.

The Chetnik organization was formed in the United States from participating members who fought communism during the war in Yugoslavia. There were several factions and the one I am referring to belongs to the leader called Monsilo Djujich.

On the October 5 occasion of the burial which was permitted at the Monastery cemetery there were about 40 to 50 Chetniks participating in the funeral procession. I did not see Bishop Dionisije at that time, nor did I see any authority of the diocese there.

When we arrived at the gates they were open and several people at the grave site told me, "We came in advance here to see whether or not anybody dares to close the gates." The man we buried on December 5 had no relatives.

I am usually informed by the funeral director who tells me the day he receives the body that one of my parishioners has died. In this case, I talked to the funeral director but to nobody else concerning this dead man. I have no letters of any kind or any written instructions concerning the burial of this man. The funeral director's name is John Schaff and he is not a member of my church, but is a Roman Catholic. I received all the information from John Schaff concerning the burial of this man on December 5, 1963.

I was 29 years of age when I arrived in this country and Bishop Damaskin had already come to the United States prior to my arrival. When I first arrived I came to Ferrall, Pennsylvania. At that time Bishop Damaskin was Bishop of the Serbian Eastern Orthodox Diocese for the United States and Canada. I believe that he arrived in September of 1938 and left sometime in November of 1939. I worked as a secretary for him for a time. I performed clerical work drafting documents, answering letters, writing instructions to parties. I have examined Plaintiff's Exhibit 30 which is the English translation of the constitution of the diocese for which I was then working. I did not do anything of the constitution. This is a translation done by Father Metrovich and as I arrived after the Sabor of 1938 everything was already done. Exhibit 30 is an English translation of the constitution with which I am familiar.

I believe that I was elected to the Diocesan Council in 1960. If I was elected, it was by the Sabor which

is a church people's assembly of the whole diocese called every four years and which meets in Libertyville. At that time Bishop Dionisije was the diocesan Bishop. I attended the Diocesan Council meetings at Libertyville Monastery of St. Sava. The see of
1869 the diocese is a geographical location where the seat of the diocese is and in this case Libertyville, is that seat.

1873 I was elected to my position on the diocesan counsel by the Sabor in the year 1960 which was the 9th church people's assembly held in Libertyville, Illinois, on September 13, 14 and 15, of 1960. I believe that Sbetozar Marvich was a member of the
1874 council at that time, as was Dr. Urox Seferovich and Nikola Cavanja, among others. Nikolai Stefenovich was also a member at that time as legal advisor.

1875 I took it as fact that I was a member of the church ecclesiastical court which is provided for in Article 42 of the diocesan constitution. I attended all of the
1876 diocesan Sabors after my arrival here from Yugoslavia. I attended the Sabor of 1944 at Libertyville as described in the English translation in Exhibit 30. The Church Ecclesiastical Court met at the diocesan see at St. Sava Monastery. The church national assembly, sometimes described as the Sabor, meets also in Libertyville.

1877 I attended a Sabor every four years between 1944 and 1960. Each of these was held in Libertyville. In the diocesan council discussion of the inquiry of 1962 concerning the need for two or three assistant Bish-
1878 ops, it was intended that they were to assist Bishop Dionisije. To my knowledge there was never, prior to May 1963, any request for the Serbian Orthodox Diocese for the United States and Canada to divide

the diocese. To my knowledge Bishop Dionisije never made any such request. I did not inform the Patriarch that any such request had ever been made.

1879 The meeting which took place at the Sherman Hotel on July 4, 1963, began sometime in the afternoon. The meeting lasted an hour to an hour and a half and
1880 2 hours at the most. In attendance was Nicholas Stepanovich, Uros Seferovich, Archimandrite Firmilian, Bishop Hrizostom and perhaps Father Popovich, but I am not sure and I believe, Mr. Maravich. I recall that at 6:30 in the evening of July 4, 1963, Mr. Stepanovich invited Bishop Vasarion, Bishop Chrisostom, Father Lastavica, Father Firmilian, Father Birchich, myself and Dubak, Maravich and Dr. Seferovich to a gathering at the Sherman
1882 Hotel.

1883 It is not true that this meeting was held over a five hour period which included dinner. There were no chairs in the room and we all continued to stand throughout the meeting. Bishop Chrisostom sto[illegible]
1885 during the entire time he was in the room and could not have been over sixty at that time. I heard some-
1886 where that Nicholas Stepanovich had a tape recorder hidden somewhere in the room and I was not aware that it was there. I do not recall Mr. Stepanovich stating that at the 1960 Sabor the right to call the next Sabor was delegated to the Bishop and the Plenum. I recall him saying that the Sabor was originally called for October 19, but because of the tur-
1887 moil the Plenum unanimously voted to advance the Sabor to August. The purpose of this Sabor was for the Council to ask the Holy Synod to send a commission to investigate the complaints against Bishop
1888 Dionisije and everyone expected that the commission

would come to the Sabor in an attempt to solve the problem. I made the motion to advance the Sabor
1889 orginally set for October of 1963, to July. The final action taken by the Council was to advance it to August. I recognize the Plenum exists in this diocese as a combination of different committees and which functions in practice, but is not sanctioned by the constitution.

1892 On June 6, 1963, I recall making a request that the diocesan Sabor be advanced in order to consider the May 10th, 1963, decision of the Holy Synod. I do not recall Mr. Stepanovich asking Bishop Chrisostom at the Sherman Hotel on July 4, 1963, whether the calling of the 1963 Sabor was legal and the reply that it was. I do not recall any questions directed to Father Firmilian concerning the legality of the Sabor. Dr. Seferovich replying to Bishop Chrisos-
1893 tom stated, "We want to rule the church and we are going to eliminate all those who are undesirable to us. One priest in Cincinnati, Ohio, is already out, a second one in St. Louis is out, next is Dusan Popovich in Chicago and next is you" and he pointed directly at me.

1894 I do not recall Bishop Chrisostom stating that neither the Sabor of the United States, the Plenum in the United States, nor Bishop Dionisije had asked that the diocese be divided in three parts in response to the question from Mr. Stepanovich. I recall Bishop Chrisostom agreeing that neither Bishop Dionisije, the Plenum or the Sabor had nominated or requested Father Lastavica be ordained as a Bishop. I do not
1895 recall whether or not there was a tape recorder on the table at the June 6, 1963, Plenum meeting. I was

not aware that all of the Plenum meetings and diocesan council meetings are taped. I was aware that some of the Sabors had tape recordings made. I did
1897 not see the tape recorder at the 1960 Sabor. On June 6, 1963, the Plenum meeting was held in the Monastery at St. Sava and there were 25 to 30 people in attendance, or perhaps more including the guests. At that meeting, I made a motion that the Sabor should be accelerated for the purpose of settling a problem of Bishop Dionisije and to the best of my knowledge I recall nothing else in my motion considering the division of the diocese.

1902 I do not remember saying at the Plenum on June 6, 1963, in words or substance, in the Serbian language that "I second the motion that our Sabor consider our constitution." I likewise do not remember saying
1903 "that this question be treated at our church national assembly again because a complete investigation should be made and now as far as that question is concerned our Sabor is a live body and should make the decision on that subject." I do not remember that
1905 the May 10, 1963, decision of the Holy Synod of Bishops was discussed at the June 6, 1963, Plenum meeting. I do not recall whether anything other than
1906 the question of the division of the diocese and the matters relating to Bishop Dionisije was discussed at the 1963 meeting on June 6. I recall that June 6,
1909, 1963, Plenum meeting. The meeting was called to consider the matters on the agenda but I do not recall what the agenda was. I do not recall whether or not I was a member of the Executive Board who set up that special meeting. Special meetings were usually
1910 set up by the Executive Board of the diocesan Council. I was a member of the Executive Board but I do not recall attending that meeting.

To the best of my recollection, when I arrived at the meeting the participants were discussing the matter of the May 10, 1963, Synod decision. To the best of my recollection, Father Firmilian was not present at the beginning of the meeting but came in later and read his statement which he received from the Holy Synod asking him to take over the diocese. I do not recall that there was anything else discussed at this meeting besides complaints against Bishop Dionisije. I recall that the discussion included the fact that the decision made in Belgrade required this Sabor date being advanced, and in connection with this, the decision was made that a commission should investigate the complaints against Bishop Dionisije.

I received the ruling of the Holy Synod of Bishops of May 10, 1963, by mail shortly after that date, but I do not know how many days. I was concerned about the conditions which provoked the decision. The division of the diocese into three parts was immaterial to me. It was the decision of the high authority of the church. I did not feel that it would be a transgression against our constitution. I was only concerned with what was going to happen with the church in the United States. I did not call this Plenum to consider the decision of May 10; I was not instrumental in deciding anything as I am just one member. At the Plenum meeting of June 6, 1963, the May 10, 1963, decision was discussed at length. Mr. Stepanovich may have stated that this was against the constitution of the American-Canadian Diocese. The discussion included whether or not the diocese could be divided into three parts by the Holy Synod. I did not say, nor do I recall anyone saying, "that our Sabor in its full jurisdiction considers the division of the

diocese." I do not recall seconding any motion concerning the Sabor considering the division of the diocese and requesting a study be made.

I attended the Plenum meeting in Chicago in February of 1962. I do not recall the subjects of discussion. I do not recall Mr. Stepanovich stating that, rather than have the Mother Church send a Bishop not of our choosing, it would be well to discuss with the Hierarchy our present position and what would happen in the eventuality of the death of Bishop Dionisije. The discussion at this meeting contained the proposal that a delegation from our diocese be sent to the next Sabor in Belgrade which was to occur on the second week of May to discuss the possibility of assistant Bishops for Bishop Dionisije. The Plenum unanimously adopted this suggetion and left it for the Bishop to appoint the members of the delegation. The Plenum might have expressed who they would have Bishop Dionisije send to Belgrade. The Bishop appointed myself, Nicholas Stepanovich and Stefan Marvich as members of the delegation to Belgrade. I learned later about a cable from the Patriarch to Bishop Dionisije stating that a delegation would not be welcome without Bishop Dionisije as its head. The delegation did not go.

At the Plenum meeting of June 6, 1943, Father Firmilian asked Bishop Dionisije to turn over the old Diocese, the diocese which was in his possession at the moment. I do not recall that Bishop Dionisije told him, "I am not the Bishop of the Midwest Diocese." To the best of my knowledge, Bishop Firmilian said, "I am ordered by the highest church authority to take over the diocese from you and I am asking you to turn it over to me." In substance that is what he said.

Firmilian had a paper in his hand and he read it to Bishop Dionisije. I believe that it was the decision of May 10, 1963. On October 1, 1966, I began being Secretary to the Midwest Diocese. At that time, I was
1951 the Secretary of the whole church, all three dioceses under the church council. I also worked for Firmilian for the Midwest Diocese. The council to which I refer is the council of all three dioceses, composed of representatives of all three dioceses.

1952 The church council was created by the Church Assembly in 1964 in Detroit, Michigan, but I am not aware if there is a constitutional provision for this council. The Midwest Diocese, of which I am the Secretary of the Bishop, is not a separate, independent diocese from the other two dioceses created on May 10, 1963. The three dioceses are three component parts of the Serbian Orthodox Church of America and Canada. This is based upon the Constitutional statements saying that the Serbian Orthodox Church in the United States is a component part of the Serbian Orthodox Church in Yugoslavia, which appears in the Constitution of the Serbian Orthodox Church in Yugoslavia. That Constitution does not mention a diocese in the United States. It existed prior to May 10, 1963.

1954 I act as Secretary to the Bishop of the Midwest Diocese and handle all matters assigned to me. I have the diocesan council and have handled all matters for the Council since 1966. That council has had regular meetings since 1966. Referring to Plaintiff's
1955 Exhibit 8r, I have examined Pages 30, 31 and 32. I
1956 believe I was in Belgrade at the time I made this report and mailed it to Bishop Dionisije.

1957 I made two written reports which are Plaintiff's Exhibit 87 and an oral report in July of 1962. I also wrote some articles in papers and newspapers. I be-
1958 lieve I wrote a report for a newspaper called *Srbobran,* published in Pittsburgh, Pennsylvania.

1959 The reports stated, "I have spent several weeks in this ill-fated country, carefully studying the life of my people under communism. I talked as little as I could and tried to observe and listen to what is going on. 'Freedom of religion is guaranteed,' and is written in the Constitution of Communist Yugoslavia. I remember that the same phrases written in the Soviet Constitution in many places, but that did not stop them from closing recently several theological colleges and putting several Russian Orthodox Priests in prison. In Yugoslavia the situation is the same as in the Soviet Union or China. 'The religion is an opium for the people'; therefore it must be destroyed by all
1960 possible means, they say. Tito has well succeeded in cheating the West with his propaganda in this respect. In Belgrade the churches are opened and lately services are conducted without interference. Belgrade is a big city. There are foreign embassies and many tourists from the west. But if we look a little deeper into the religious life of the people in Belgrade, or more so into the interior, we will see diabolical plans and actions against the church and religion in general. For instance, a number of churches in Belgrade were damaged during the war and repairs are necessary. These churches have no income of any kind since the collection of money for this purpose is prohibited. The only collection which the communists allow is the plate-collection in the church. This income is so small that it is not sufficient to cover the

most trivial necessities. The people who go to church are very poor and one cannot expect larger donations from these people. The people with good income are communists who don't go to church. How then could a particular church be repaired. If the priests are caught collecting donations outside the church, they are severely punished. The young people and chil-
1961 dren cannot attend the church on holidays, not because they are non-believers, but because they are afraid. The youth who is employed is afraid to lose his job. This has often happened. The school children are systematically taught against church ways. In the classes children are taught to make fun of everything connected with religion, national, traditional, etc. This is also true among children in the kindergartens who are from four to six years old. I was a guest in a family where they told me that their five-year-old boy came home from school on Patron-Saint Day and refused to say 'zito'. (This is a religious custom whereby one takes a spoonful of cooked wheat in remembrance of the Patron-Saint, protector of the family) because his teachers told him not to. In another school, they told me two girls were thrown out of school because they had small, golden crosses around
1962 their necks. The teachers approached them, angrily tore the crosses from the chains, dropped them on the floor, and threw the girls out of school. In the smaller towns in the interior, the terror against the priests while they are performing their church ceremonies, has never entirely ceased. In these places, in order to show their loyalty to the Party, the local authorities consider it their duty to hamper the churches and their priests. Very seldom would the higher authorities intervene in favor of the church."

1967 The entire report was published in Pittsburgh and everything contained was true. To the best of my recollection it was published in *Srbobran*. I am ac-
1968 quainted with Father Dusan Vavich. I filed a complaint to the Patriarch on August 2, 1963, which became item 17 of the Indictment in this case. My signature appears on the Serbian document marked as Defendant's Exhibit 5-A. Between 1938, the date of my arrival in the United States and May 10, 1963, the diocese in which I served as a member of the diocesan council and as a member of the church eccesiastical court was the only religious body of the Serbian Orthodox Church in the United States and Canada. I left the Serbian Cathedral in Milwaukee, Wisconsin, on December 1, 1964.

1972 My assistant at that church was Sava Vojkove. He later was placed in charge of the Cathedral and I have heard since that he was removed as dean of the Cathedral. Applications were requested for persons
1973 wishing to fill the position vacated in Milwaukee and I made such an application. I was the only applicant
1974 for the job and I was rejected. I did not finish my
1976 studies at the Theological School and required one more semester. On March 15, 1939, when I was 29 years of age, I was secretary to Bishop Damaskin; now, thirty years later I am secretary to Bishop Firmilian doing approximately the same work I was doing 30 years ago.

Redirect Examination.

I resigned my position in the Cathedral in Milwaukee for health reasons. When I reapplied for the
1977 Milwaukee parish my health had completely recovered.

The Chetniks who were present at the cemetery were members of the Milwaukee congregation. Most of them accompanied the funeral cortege from Milwaukee to the cemetery. Mr. John Schaff was the funeral director in charge of that particular funeral and had been in charge of other burials in the cemetery at St. Sava on prior occasions. It was usual that the family, or the friends in the absence of family, make the arrangements with the funeral director, and the funeral director make arrangements with the cemetery for preparations prior to the time of burial. Regarding the meeting of the council and the church court group on June 5 and 6, 1963, at no time did I consent that that proceeding be recorded on tape. No mention was ever made to me of the tape recorder. Regarding the meeting at the Sherman House I was similarly unaware during that time that a tape recorder was present. No mention was ever made of it.

There is no funeral director of the Serbian Orthodox Faith in Milwaukee or in the Chicago area to the best of my knowledge. Expenses for my trip to Yugoslavia were paid for by Bishop Dionisije. I visited Bishop Dionisije on the eve of my departure to Yugoslavia. In my discussion with the Bishop prior to my departure I told him I wanted to be sure about the job I had to do in Yugoslavia and asked him specifically who his candidates for Assistant Bishop were. He replied that he wanted first, Archimandrite Firmilian, and then Archimandrite Gregory, and finally the Reverend Steven Lastavica. At no time while I was in Yugoslavia did I have any communication with Bishop Dionisije.

Recross Examination.

I wrote the articles about my observations in Yugoslavia, some of which related to the church and some to other associations. I believe that I wrote four or five in a continuing series.

DOUSHAN SHOUKLETOVICH testified as follows:

Direct Examination.

My name is Doushan J. Shoukletovich and I reside in San Diego, California. I am affiliated with the Serbian Orthodox Church and am a retired priest. I was born on June 28, 1896. I received my primary and secondary education in Yugoslavia and studied Theology in France and England. I was sent to this country in 1920 by the Serbian Orthodox Church, at the invitation of three Episcopal Bishops, to continue my studies in the general theological seminary in New York and at New York University. After I finished my studies abroad, I was called back to Yugoslavia by the Serbian Orthodox Church officials.

During the period when I was in the United States, the Serbian Orthodox Church to be legitimately recognized had to be under the offices of a Bishop, and since there were no Serbian Orthodox Bishops in the United States, most of our churches were under the jurisdiction of the Russian Orthodox Church.

VERBATIM TESTIMONY

[1996] Q. And in what work was Bishop Nicholai engaged at that time [Autumn, 1921]?

A. As I said, he had lectured at those institutions, but also he was at that time getting in contact with the Russian Orthodox Church.

Q. What was the relationship between the Russian Orthodox Church, the Serbian Orthodox Church
[1997] and any congregations of the Serbian Orthodox Church here in America at that time?

A. Our Serbian Orthodox churches—

Q. You may sit back and relax.

A. I am quite all right, thank you.

Our Serbian Orthodox Church, as all other orthodox churches, in order to be legitimately recognized, it must be under a jurisdiction of one of the canonical bishops, and since we did not have a bishop at that time—

Q. You did not have a Serbian Orthodox Bishop?

A. Serbian Orthodox Bishop. Our churches, most of them, went under the jurisdiction of the Russian Orthodox Church in this country, and the relationship was friendly.

Q. And what was Bishop Nicholai's mission in that respect?

A. Bishop Nicholai's intention and mission was actually to ask the releasing of the jurisdictional power over the Serbian churches by the Orthodox hierarchy so that he could have them organized into their own Serbian Orthodox dioceses.

ABSTRACTED TESTIMONY RESUMED

1998 I was eventually ordained after completing my studies in November of 1926. Both as a deacon and
1999 as a priest, I was ordained by the first Serbian Orthodox Bishop for the United States of America and Canada, Bishop Mardary. After my ordination I
2000 was assigned to a parish in Lorain, Ohio. Bishop
2003 Mardary went to Yugoslavia in 1926 to be consecrated as Bishop, and prior to that time there was no diocese of the United States and Canada in ex-

2008 istence. I received a number of honors during the years that I served the church. When I was first ap-
2010 pointed as pastor in Lorain, Ohio, no congregation existed. I organized the parish according to the ordinary customs of our church at that time.

2013 I have read PX 24-28.

2019 The time came in our diocese when there was appointed by the Holy Assembly of Bishops a regularly designated diocesan Bishop. I met the Bishop on his
2020 arrival here in 1926 and he was Bishop Mardary Uskokovich. At the interim period between the de-
2021 parture of Bishop Nikclai to Yugoslavia and the appointment of Father Mardary as Bishop, Mardary was designated as administrator of the diocese.

VERBATIM TESTIMONY

[2019] By Mr. Jenner:

Q. Did there come a time, Father Shoukletovich, when there was appointed by the Holy Assembly of Bishops, a regularly designated diocesan bishop?

A. Yes.

Q. And do you have personal knowledge of that?

A. I do have that directly from the bishop him-
[2020] self whom I met in New York upon his arrival from Belgrade.

Q. And when was that, sir?

A. That was in 1926, in the spring.

Q. Who was that?

A. Bishop Mardary Uskokovich, but we don't use that last name, that's the last name, and we use Bishop and then only the first name given to him. We eliminate completely the last name.

Q. But for purposes of the record, would you please spell the last name of Bishop Mardary even though you are not going to use it from here on.

A. U-s-k-o-k-o-v-i-c-h.

Q. Now, had Bishop Mardary, prior to becoming consecrated a bishop for the church in America, diocese, been a parish priest in America?

A. He has.

Q. And was he a parish priest at the time Bishop Nikolai came to America?

A. He was.

Q. Do you know of your own knowledge whether the then Father Mardary assisted Bishop Nikolai in his mission to organize the church in America and to form a diocese?

[2021] A. At the time when Bishop Nikolai came in, Bishop Mardary had gone to Yugoslavia so they were not meeting at that time here, but they met in Belgrade before Nikolai came here.

Q. Now, in the interim period between the time of the return of Bishop Nikolai to Yugoslavia—when was that date again?

A. Latter part of 1921.

Q. And the consecration of Father Mardary as a bishop and his assignment as bishop of the Canadian-American Diocese, who carried on the work of assembling the congregations and eventually bringing about the organization of the diocese?

Mr. Snyder: Objected to, no showing of any personal knowledge of this.

By Mr. Jenner:

Q. Do you have personal knowledge of who did or didn't?

A. I do. I have.

Q. Tell us, please.

A. In 1923, Archimandrite Mardary came here as a designated administrator of the diocese under the jurisdiction of Bishop Nikolai because Nikolai was still at that time to be accounted to by Archi-

[2022] mandrite Mardary, and that was in 1923.

ABSTRACTED TESTIMONY RESUMED

2026 Father Mardary left this country in 1921 for Yugo-
2027 slavia and returned to the United States in 1923. During the period in which Father Mardary was absent from this country two Protos represented the Serbian Church. I had occasion to visit both of these
2029 gentlemen during that period and we had occasion to
2030 discuss, superficially, whether we would have much of an organized life in our church. They were both very hopeful about it. After Bishop Mardary's re-
2034 turn from Yugoslavia in 1923, I continued to be interested in the work and progress of our newly organized diocese and contacted him by letter that I was available to aid him in any way. In 1926 Bishop Mardary requested that I marry immediately and then on the 28th of November I was ordained a priest.

2037 There are two types of priests in the Serbian Church. The Monastics are not married and then they progress to Bishop. Clergymen who are married before they are ordained have only two steps, deacon and priest, but they must be married, for once they are ordained no marriage may occur.

2038 I have personal knowledge of the purchase of the land in Illinois which is now used as the Monastery.

2039 Bishop Mardary told me that a Mrs. McCormick had promised him $100,000.00 after he returned from Yugoslavia as Bishop to organize an orphanage and old people's home. However, when he returned he found that there was no money and so he turned to his own people asking them to help him through their collections. With the money raised, he bought a small piece of land near Libertyville. The first purchase I believe was about 37 acres. There were a couple

of older buildings on the land, one of which became his diocesan residence. He engaged in physical work helping to build the monastery building that stands today. He initially bought the property in his own name. At the time the property was acquired Bishop Mardary was an Archimandrite. In 1921 there were approximately 26 or 27 Serbian Orthodox Church Parishes in this country. By 1963 I would say there were about 70 parishes. In May of 1935 Bishop Mardary called quite a few prominent men from the surrounding parishes and he told them that it was his desire that the property be taken out of his name and at that time he appointed seven men to become trustees.

I have read PX 91 which is a certificate of charter certified by the State of Illinois and I recognize the signatures on the document. Upon the issuance of the certificate of charter identified as PX 91 the corporation drafted no by-laws and nothing very concrete was done. The corporation did hold real estate under the St. Sava Orphanage in Libertyville.

Exhibit 92 is a certified copy of the articles of incorporation of a corporation incorporated on May 25, 1935. It is entitled the Serbian Eastern Orthodox Diocese of the United States of America and Canada. I recognize most of the names on page two of this document. This corporation did not to my knowledge have a constitution or by-laws. The only layman listed on page 2 of this document who is still living is Milan Radakovich of Milwaukee. No officers were ever elected to this corporation. I participated with two lawyers in the drafting of the constitution for the United States of America and Canada Serbian Orthodox Diocese. We eventually completed it prior to the first Sabor held in 1927. The Sabor was called

by Bishop Mardary and the call was issued to all the clergymen of both ranks and orders and to all parishes which had a pastor. The Sabor was held in Libertyville. My constitution was read aloud and discussed by members at the Sabor and with some minor changes was unanimously adopted. The approved text sent by the Sabor to the Holy Council of Bishops in Belgrade for their approval. I have knowledge that it was indeed approved.

I have examined PX 30 and can state that subsequently the constitution adopted at the Sabor in September of 1927 was amended. The constitution was amended by the Sabor of 1939 and these amendments were submitted to the Holy Counsel of Bishops of the Serbian Orthodox Church in Belgrade for approval. During the first Sabor which I attended there was no suggestion at any time that the Bishops of the Serbian Orthodox Church could be appointed as Bishops for the diocese of the United States and Canada by being elected by the Holy Assembly. Similarly no mention or suggestion was made of this at the Sabor of 1939. At the '35 Sabor Bishop Mardary expressed himself as wanting to have the property preserved by any possible means. In a meeting held on the 15 of May in 1935 he expressed his desire for a corporation to be formed and elected six persons as trustees. As far as my recollection goes no property was ever conveyed to that corporation. At the death of Bishop Mardary the Rev. Ristanovich was appointed as administrator until a new Bishop arrived. The new Bishop was the late Bishop Irinej Georgevich who arrived in 1937. He was appointed by the Holy Council of Bishops and the Patriarch as was the administrator. Bishop Irinej remained only

two months and then was recalled to Belgrade. He was succeeded in 1938 by Bishop Damaskin who was
2077 appointed by the Holy Assembly of Bishops and the Patriarch. He remained in this country for a year and a half and then left for Yugoslavia. In 1950 Bishop Dionisije was appointed Bishop by the Holy Assembly of Bishops and the Patriarch. No action was taken by the Sabor by way of approval of any of these appointments by the Holy Assembly.

2079 I attended all of the Sabors up to 1961. I was also present at the 1963 Sabor but not as a delegate, but as a priest from my parish. All of the Sabors held through the Sabor of 1960 were convened and held in accordance with the constitution of the diocese which I have identified as PX 30. This was not true of the 1963 Sabor. The first call for the Sabor was sent out in February, 1963, calling us for the convening of the Sabor in October of 1963. The calls had
2080 been issued by Bishop Dionisije in accordance with the constitution. Soon after that, the call was changed by the Plenum of the diocese which consists of the total of the elected officials of the Sabor of all branches. And they advanced the date of the Sabor to August 6, 1963. In light of my learning and the
2083 fact that I helped draft the constitution, I have no opinion as to whether or not the Sabor of 1963 was called in accordance with the constitution. The Sabor call did differ from that of earlier Sabors in that it was not invoked by the right people; the presiding Bishops of the Diocese.

2084 The Sabor was held on August 6, 7, and 8, 1963, in Libertyville. I tried to participate fully in the Sabor which was presided over by Bishop Dionisije. I was aware at the time of the suspension of Bishop Dionisije by the Holy Council of Bishops and Holy Synod on May 10, 1963. I attempted during the Sabor sev-

2085 eral times to get the floor to state from my own knowledge that the constitution made this Sabor illegal and that all acts performed and achieved at this Sabor would be null and void when they came before the Holy Council of Bishops and the Patriarch.

2088 Notice of the Sabor to be held in August of that year was sent to a number of organizations and groups who are not provided for in the constitution as being entitled to have such notice. These were members from the St. Sava Club, which is a political organization, the National Defense, Brtska Bomoch and others. I saw these groups in attendance at the
2089 Sabor in Libertyville and they participated in the voting.

2097 Article 16 in the constitution is the only article which deals with the subject matter of who is authorized to attend the Sabor. At the 1963 Sabor women were in attendance and were permitted to participate and vote. Article 16 of the constitution does not embrace women as authorized to attend the Sabor. They are similarly not authorized to vote.

2098 I was involved in the organization of the St. Sava Serbian Orthodox Church in New York City. I took
2099 charge of the congregation on January 1, 1942, as the parish priest assigned there by Bishop Dionisije. At that time they did not have a parish church building. Through friends in the Episcopal Church, I ob-
2100 tained a church building on East 116th Street for the use of my congregation. In 1942 I was successful
2101 in acquiring the plot of land we now own from the Episcopal church. The property was of tremendous value, but due to the fact that we were poor friends of the Episcopal Church, and they were anxious for

us to establish a center of our own, they sold us the property for $30,000.00. This property was, according to the estimates at that time, valued at $1,000,-000.00 or more. I took possession in March of 1943.
2106 Title of the property was placed in the hands of the corporation and seven members of the parish acted as trustees.

2108 PX 93LA is the charter of the corporation about which I just testified. The names of the trustees appear on page 2 of this document. I conversed with
2111 Bishop Dionisije in addition to receiving a letter concerning the incorporation of the church. The conversation occurred in New York City before we organized. Mr. Dusan B. Tripp was present at this con-
2112 versation. The consensus of opinion was that the
2113 matter of taking title should be handled as a corporation as it would provide safety for the property and appeal to the people. Subsequently, Bishop Dionisije
2119 and the trustees in New York of the New York Corporation decided it would be a good idea to transfer the title to another New York Corporation and this
2121 was done in 1953. I took part in the organization of the religious corporation named on page 1 of PX 94. The subject matter of the organization of this second religious New York Corporation was discussed with Bishop Dionisije.

2122 The corporation described in Exhibit 93 was or-
2123 ganized in 1942, and in 1953 the New York State Religious Corporation entitled Serbian Eastern Orthodox Church of St. Sava was organized. The signa-
2124 tures of Bishop Dionisije and Rev. Firmilian Ocokolich appear on the second page of this document. The signature of Dusan B. Tripp appears on the page numbered four of the Exhibit. The Canadian-American Diocese as distinguished from those corporations

has a pension fund of its own. I was one of the founders and initial dues paying members of the pension
2127 fund. I became eligible to draw funds from the pension fund in 1961 when I reached my 65th birthday. I applied for benefits and was granted $38.00 a month from then on. The payments terminated when I made my decision that I could not accept the conditions required by the diocese of the United States of America and Canada. I then recognized the new Bishop, Bishop Gregory, in Los Angeles. PX 95 is a
2128 communication putting me on the pension fund at my request in 1961. PX 96 is an open communication to all clergy dated March 22, 1965, under the signature of Archimandrite Dimitrije. He was the
2130 secretary of the Executive Board of the Serbian Eastern Orthodox Diocese and also of the ecclesiastical Court of the same diocese. I received a copy of PX 96 in my capacity as pastor of the Serbian Orthodox Church St. Elijah in Gary, Indiana. I came
2131 out of retirement in 1963 when I was called to the parish in Saratoga. They asked me if I would accept and I did subject to the approval of my then Bishop Dionisije. The approval having been granted I was their pastor. This was in January of 1963. Since I have become an active clergyman again I was not entitled to the pension which had been given to me by the decision of the proper authorities and so I did not insist upon asking for that sum of $38.00 per month.

2132 In 1964 I was called to another parish in Gary, Indiana, to help organize it with the blessings and approval of the diocesan Bishop Firmilian. After
2132 working in other churches I finally retired for good in July of 1968 and went to San Diego to live.

PX 97 is a letter which my attorney wrote to Bishop Dionisije in my behalf. PX 98 is a letter dated September 3, 1968, under the letterhead Serbian Eastern Orthodox Diocese for the United States of America and Canada addressed to my attorney in reply to his letter and signed by Bishop Dionisije. The part of the letter which states "I am sorry to inform you that the Very Right Rev. Doushan Shoukletovich lost his right to receive pension from our diocesan pension fund according to our pension fund by-laws which were confirmed by the Holy Synod of Belgrade since he passes to another diocese and accepted to be a parish priest of it" refers to the Western Diocese of which Bishop Gregory was Bishop. Under the pension plan rules prior to 1963 those who had fulfilled the conditions provided for in the pension fund regulations and who had reached the retirement age or were disabled from carrying on any work were entitled to benefits. At the time of my retirement I was a priest of the diocese which I mentioned. Following my retirement, when I became a parish priest again on two occasions, I did not make additional payments to the pension plan because the fund was held by Bishop Dionisije who was not recognized. The pension fund was established in the early 50's and up until the time of my retirement I made payments to it.

When I testified earlier whether any property had been conveyed to the first corporation, the orphanage corporation, I stated none had been conveyed, but that was an error. It is a fact that Bishop Mardary conveyed the Monastery property standing in his name to the monastery corporation. I also stated that no property had been conveyed to the second corporation and I wish to make a correction there.

It is a fact that the property that had been conveyed to the orphanage corporation was after the death of Bishop Mardary conveyed and transferred to this 1955 corporation.

Cross Examination.

I was well acquainted with Bishop Mardary during his lifetime and had known him for a period of sixteen years. He was born in Montenegro about 1889. I do not know when our churches went under Russian jurisdiction. I do not know where he attended school. I do not know where he was prior to becoming a Bishop. I am not aware of what seminary he graduated from or when he was ordained a priest. I do not know which church ordained him as a priest. I do not know which church sent him to this country. I received my information that the Serbian Churches in America were under the Russian Orthodox Church from my contacts with priests here in America. All I learned was that they recognized the jurisdiction of the Russian Bishops. I was in Lorain, Ohio, from December 1st, 1926, to December 31st, 1927. I was organizing the parish, bringing the people together for worship, having school with the children, organizing the ladies' society, buying land, collecting money and making plans to get the church together. I also went down to Akron as there were no churches there to help the people with their sacraments. I did not work in any kind of steady church work other than these two places at that time. I did some work in Libertyville as I was a member of the ecclesiastical Court. I attended the Sabor in 1927 at Libertyville, Illinois. I traveled directly from Lorain, Ohio, to Libertyville leaving Lorain a couple of

which was read word for word to the Sabor. The constitution drafted in 1927 was read paragraph by
2165 paragraph to the Sabor. Article II was also read to
2172 the Sabor. The 1939 version of the constitution refers to the area as the Kingdom of Yugoslavia whereas the 1927 copy refers to the Kingdom of Serbs, Croats and Slovians.

Article III was read to the Sabor.

2173 Article IV was read to the Sabor.

2174 Article 9 was read to the Sabor, "The Bishop of the Serbian Eastern Orthodox Diocese in the United States of America and Canada is appointed by the Serbian Orthodox Patriarchate. There was no phrase following which stated after a prior agreement with the diocesan council. I do not remember if the state-
2184 ments, "The Bishop of the Serbian Eastern Orthodox Diocese in the United States of America and Canada is appointed by the Serbian Orthodox Patriarchate after a prior agreement with the diocesan council," was ever submitted to the Holy Assembly of Bishops for approval. Article 23 of the constitution at para-
2194 graph 8 states "that the Diocesan Assembly, after it is constituted, performs the following work: decides about changes and amendments of the constitution."

2195 DX 7 is a letter dated October 7, 1927, and I recog-
2197 nize the signature on this letter as that of the late Bishop Mardary. Between the years 1920 and 1924
2198 I was a student in the Seminary at the New York
2199 University. I quit school due to my health and remained in New York until 1926. During the period of my studies I had no other occupation. I went to
2200 Libertyville, during this period in 1923 and then again later, I went there on a vacation to see what
2203 was going on. The diocese had representatives from

days before the Sabor was scheduled. I had been in Libertyville prior to this occasion when I was work-
2156 ing with three lawyers on the constitution. There was a committee for the preparation of this constitution consisting of His Grace Bishop Mardary and the priests from Chicago, Indiana Harbor, Detroit who did research in preparing the text which we then submitted. There was an assembly committee for the final draft of Silaski, of Akron, myself, Kosta Elisin of Detroit, Michigan, and Z. Bunichich, an attorney from Akron.

2157 They did their work on the final draft after the committee for the preparation had submitted their research and work. That work could have been done in Libertyville on the first, second, and third of September, 1927. This is the time at which I worked on the final draft. This is not the only time I worked on the constitution; I do not remember at what time prior to this or the exact dates. This constitution
2158 which the committee for the final preparation had
2159 prepared in the committee for the final draft had reviewed was read to the Sabor at their meetings of September 1, 2, 3 and 4, 1927.

2161 I read to the Sabor article I which states, "The Serbian Eastern Orthodox Diocese in the United States of America and Canada Ecclesiastically and canonically is considered as an organic part of the Serbian Patriarchate in kingdom of Serbs, Croats and Slovians and enjoys all benefits which therefrom appertain."

2162 A pamphlet in Serbian marked PX 99 for identification is the Serbian text of the constitution that
2163 was finally adopted. Some amendments were added
2164 between 1927 and 1939. Therefore, these two documents are not an exact copy of the 1927 constitution

the eastern region and western region as there were
2204 two Presbyteries. My conversation with the Presbyteries was in '25 or '26 and perhaps earlier.

2205 I have personal knowledge that Bishop Mardary purchased 37 acres of land in Libertyville although I cannot be certain of the exact amount. I had knowledge that Bishop Mardary intended to use the land for the present monastery. He told me this during
2207 1924. I do not remember if Bishop Mardary stated who he purchased the property from or what the price of the property was or if he made a down payment on the purchase price or what the nature of the balance and payments would be. I attended the 1931
2208 Sabor. I do not remember a very heated discussion at that time relating to this property. I have no recollection that $31,000.00 of indebtedness attached to this property and the buildings on it. I do not remember an action at the Sabor as to whether or not the Sabor should assume and pay a debt of $31,000.00 on this property. I recall the circumstances of Bishop Mardary's death at the Monastery and the fact that he spent some time in the Ann Arbor Hospital in Michigan. I was not aware that the Bishop left
2209 a $3,000 unpaid hospital bill. I do not know that the Bishop died without funds. I had no knowledge that Bishop Dionisije paid the $3,000 bill left by Bishop Mardary in 1942. I am acquainted with Michael Pupin. He was the Serbian inventor and a professor at Columbia University and a great benefactor and philanthropist. I have heard that Michael Pupin paid a portion of the debts left by Bishop Mardary but I am not aware of the amount.

2211 I had nothing to do with the incorporation of the Serbian Eastern Orthodox Council of the United States and Canada in 1927 or the incorporation of

the Serbian Eastern Orthodox Diocese in 1935. I was at one time a member of the Diocesan Council in the
2212 early 50's. I was a member of the Ecclesiastical
2213 Court from 1927 to the early 50's when I received a letter from the Bishop that in view of the long distance between New York and Libertyville he was adding another member of the Ecclesiastical Court to replace me. Later on in the 50's that same Bishop reappointed me to the Court until 1960 when I went to Gary, Indiana, to go to the post. Later still, I continued to be a member of that Court appointed by the New Bishop.

2214 The Western Ecclesiastical Court is the Court for the Western Diocese of which Bishop Gregory is the Bishop. It is one of the dioceses created by the actions of the Holy Bishops' Assembly on May 10, 1963. I had also been a member of the Ecclesiastical Court from the Midwestern Diocese which was similarly created by the Holy Assembly of Bishops on May 10, 1963, of which Bishop Firmilian is the Bishop.
2215 Between 1927 and the early 50's, The Ecclesiastical Court met only when the Bishop called it and this
2216 did not occur too often. The Ecclesiastical Court was not part of the Plenum. At no time was I ever
2217 an officer or director of the Serbian Eastern Orthodox Diocese of the United States and Canada, an Illinois religious corporation. I have no recollection of ever having discussed this Illinois religious corporation with anyone. I have no personal knowledge of the affairs of this corporation. I have no per-
2218 sonal knowledge of any of the affairs or the activi-
2219 ties of this corporation. I am not familiar with Illinois law governing religious corporations. I was not officially a delegate to the 1963 Sabor but came

as a priest of long standing interested in the welfare of my church. As a priest I have a vote. The
2220 1963 Sabor was held in Libertyville where all the
2221 others have been held. The primary topic of conversation that I engaged in was the legality of the Sabor. I remained at the Sabor until almost the
2222 very end. I arrived at the Monastery on the morning
2223 the Sabor opened. At the time when the first Bishop came here, which was in 1926, there were about 26 or 27 Serbian Orthodox Parishes in this country and in 1963 there were about 70 parishes in existence. I do not know how many parishes existed in 1940. I received notice of the 1963 Sabor in the mail at the parish. The notice was sent to all the clergy of both orders and to the parishes. Some of the groups at
2224 the 1963 Sabor were the same as those who had been
2225 at the 1960 Sabor. The Federation of Serbian Sisters were present at the 1960 Sabor and has some delegates, but I do not know if they voted. I did not protest the fact that the ladies attended the 1960 Sabor.
2227 I was assigned to the New York Parish by Bishop Dionisije, January 1, 1942. I made regular reports to the Bishop whenever needed or requested. The
2233 reports I made to Bishop Dionisije related to my activities in the New York Church. I do not recall any delegation appointed by Bishop Dionisije to talk to Bishop Manning. My first conversation with Bishop Manning was in January of 1942 alone in his
2234 office. I reported the conversation to Bishop Dionisije concerning the obtaining of a Church for Serbian Services. It is possible that a delegation consisting of the vice president of the diocesan council, Mr. Martinovich, Bishop Dionisije, and Mr. Dusan
2235 Silhkai met with Bishop Manning in 1942. The agreement with the Episcopal Church was concluded by

the diocese and the delegation which was just mentioned and the delegation helped conclude that agreement with the Episcopal Church. The agreement was for the purchase of the property for $30,000.00 and if at any time the property ceased to be used as a church it would return to the Episcopal Church.
2239 Exhibit 93-A contains the six signatures of the persons who were officers of the New York corpora-
2240 tion. The president of the corporation was D. B.
2241 Tripp. The corporation had meetings but I do not remember the dates of them. I do not know who presided at the meetings and I don't recall ever hav-
2242 ing attended one. I have examined PX 94 and on page 3 is the signature of Bishop Dionisije and he has signed in the capacity of president. Beneath the
2243 signature of Bishop Dionisije is that of Rev. Firmil-
2244 ian Ocokolich. I have seen the seal in Libertyville bearing the legend, "Serbian Eastern Orthodox Diocese for the United States of America and Canada, Inc., May 22, 1935," with word "Illinois" at the bottom of the seal. Ordinary documents coming from Libertyville would not have this seal and I do not recall what documents I have seen it on. I can re-
2245 member having seen the seal during the period of
2248 1935 to 1942. I presume the seal which I saw in Libertyville was the seal of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation. Al-
2249 though I can recall the Sabor held in 1935, I do not remember the exact dates nor do I remember how many days the Sabor covered. I believe I attended every session of the Sabor in 1935 and Bishop Mardary did attend the Sabor. I do not remember the proceedings that were held at that Sabor in detail.

When the Episcopal Church conveyed the New York property it was conveyed to the New York Corpo-
2250 ration. This was the corporation referred to in PX 93. I believe that the sale was made in early '43 as the corporation was formed in 1942. I do not know now where the title to that property is.

2251 I first retired in June of '55 staying in retirement for six months, returning to work as a priest on January 1, 1956. I continued in active service as a priest from January 1, 1956, to July, 1960 at which time my second retirement began. This lasted 2½ years. In January of 1963 I started active service as a priest for one year and this time I remained retired for three months. In April of 1964 I started active service again until August of 1965. In January of 1966, I resumed my activities as a priest.
2253 From January of 1966 until July of 1968 I was an active priest and then retired again for the fourth time. At the occasion of my first retirement there was a banquet given for me in New York City. The parish gave me $500.00 in cash and two bonds of
2254 $250.00 each. On my second retirement in Gary another banquet was given to me and the parishioners there gave me some money, but I do not recall the amount. On that occasion they gave me an automobile which was a 1960 Ford Galaxie. On the occasion of my third retirement there was no banquet except a friendly dinner.

2255 This occurred in San Jose, California, and I did not receive any money at this time; however, they gave me some luggage. After retiring from San Jose, I had occasion to go back to Gary and retire there again and at this time another banquet was held and they gave me some money. I do not recall the exact amount and the church was St. Elija Ser-

bian Orthodox Church of Gary, Indiana. While serv-
2256 ing in Gary at St. Sava, I had two banquets and at the first of them I received cash. It could have been
2257 in excess of $1,000.00. At the second banquet I received cash but I don't recall the amount. On my fourth retirement I received cash also but I do not recall the amount. Finally, I retired from the Bay
2258 area which could be called my fifth retirement. I received a banquet on that occasion in Oakland, Cali-
2259 fornia and they gave me a little money, but frankly, I do not remember the figure. It was not in excess of $1,000.00. These are the only five times I have retired.

2260 I received a letter from Bishop Dionisije under the date of April 25, 1961, granting me a pension at my request of January 1, 1961. I do not remember if it was mentioned that there was a physician's recommendation in that letter or whether I sent a physician's report with the request for the pension. I have, on different occasions, been afflicted with asthma, hay-fever, and a bronchial condition. I was granted a pension on the basis of those illnesses and of my
2261 age which was 65 at that time. I don't remember ever having written a letter to the diocese relating to my pension other than the application made in 1961.

2262 In the early part of 1963 Bishop Dionisije and I had a conversation concerning the pension. It occurred in front of the El Cortez Hotel in San Diego and at that time I complained that since I was a priest of the newly organized church in Saratoga I was without pay until the end of May and I did not receive my pension checks. I do not remember if I
2263 said anything else to him about it. Bishop Dionisije said he would correct the mistake. I have examined

PX 98 which is a letter to my attorney dated September 3, 1968, the last line of which states, "Moreover, he was warned to continue his annual payments to his pension fund which he neglected." I received a copy of this letter which was shown to me by my attorney. I stopped making payments to the fund when I became eligible for my pension in 1961. I do not recall if I ever made any payments to the pension fund after that.

The last sentence in that letter states, "Enclosed is our warning letter which you can have handed to him and he might translate it in English for you." My attorney gave me this letter which was written in Serbian. I translated it into English and gave a copy to my attorney. PX 96 is a copy of the letter which was sent by Bishop Dionisije to my attorney. I have made some study into the background of the Serbian Eastern Orthodox Church in the United States.

I do not know if Bishop Mardary was elected to the Sabor of the Russian Orthodox Church in Cleveland in 1919 as a Bishop in the Russian Orthodox Church. I do not know if Bishop Mardary was under the jurisdiction of the Russian Orthodox Church until he went to Serbia in 1921. I was aware that there were church school congregations forming in the United States of America by Serbian People prior to 1920. I was not aware that there was a church school congregation in Jackson in 1894, but I do know that a small Serbian Orthodox Church was built there. When I arrived in 1920 there were 26 or 27 Serbian Orthodox parishes in existence in the United States.

When I was studying theology my studies did not include the activities of the Serbian Eastern Orthodox Church in the United States and Canada nor did I make any individual studies in particular in connection with those activities.

My first contact in the United States was with Holy Resurrection Church in Chicago in 1920. Serbian Orthodox Churches architecturally are distinct in that they have an ikonstas which separates the sacristy from the main part or body of the church. It is like a separating wall on which are certain ikons but that have to be in a certain order to be accepted as proper Serbian Orthodox Church regulates. Holy Resurrection was a very small two story building which was not long enough for all the required ikons to be displayed. The priest at that time was Archimandrite Mardary. On the outside, a sign announced that this was a Serbian Orthodox Church.

From my theological education and studies and my information gained as the priest in the Orthodox Church, I can state that the patriarchate of the Orthodox Church was formed in Serbian in 1346. Serbia was in existence in 1846. The current patriarchate was formed after the First World War although the election of the patriarch was in the early 20's. Although a dormitory was constructed after the purchase of the property Bishop Mardary acquired, I do not know if the Circle of Serbian Sisters paid $110,000.00 for that construction. I do not know if there were $70,000.00 of repairs made to the St. Sava Monastery in the early 1940's. I do not know if the monastery property was once placed up for sale at a sheriff's auction. I do not know if improvements on the monastery were paid for by donations from American-Serbs or if any of the money came from the Patriarchate. There has never been an

orphanage on the St. Sava property in Libertyville, nor has there been an old folks home. I do not know the specifics of any property acquisitions to the original tract in Libertyville.

Redirect Examination.

I have examined PX 101 A and at the bottom of that document appears the signature of Bishop Dionisije. After I applied for my pension this document was sent to me as proof that I had been pensioned.

The parish on Schiller Street was Holy Resurrection and architecturally it was a house with a sign saying it was a church and a cross on the top. Following my conversation with Bishop Dionisije in San Diego, I received pension payments for four months. These were for $38.00 a month. I received a few more payments later on in 1963. I have received no pension payments since then. The banquets I attended at retirement were occasions of honor for the work I had done for the parishes. I received plaques, testimonials and mementos at each. I recall a meeting in 1935 of the National Serbian Federation held in Milwaukee and adjourned to Libertyville. My earlier testimony that a Sabor was held in '35 is a mistake as what I recalled was the adjourned meeting of the National Federation.

Bishop Mardary died December 12, 1935. He was quite a sick man and only made an appearance at the National Federation. Bishop Mardary told me in a conversation at Libertyville in 1935 that the necessary money for the building of the orphanage and old people's home had not materialized and he could not fulfill his own desire and dream of having an orphanage and old people's home in the monastery at Libertyville. The Bishop further said that he wanted to create an organization to bring about fulfillment of his desire.

PX 102 is in Serbian and has the date September 1, 1927, Libertyville, Illinois, on it and there is a single title "a Minutes" where the minutes refer to the president they are referring to Bishop Mardary.

Recross Examination.

The meeting attended by members of the Federation in 1935 was held on Labor Day. It was usual procedure to have a celebration at the monastery on Labor Day. This one referred to in September of 1935 was a Labor Day celebration. Having read the minutes of the fourth session held on September 4, 1927, in which reference is made to the assembly of May-June, 1927 this refreshes my recollection as to the fact that a celebration was held in May which I would call an Assembly. In the church it is actually called a Sabor, but is not in the same sense that an official Sabor is held. It is a gathering of people who have a good time. I do not recall if I spoke at the Sabor held on May 29th and 30th at the Monastery in 1927. I was a parish priest in Lorain, Ohio, at that time.

Redirect Examination.

I do not know of any Sabor in the sense of an assembly of people and delegates of the diocese in 1927 other than the Sabor about whose minutes I have testified. To my knowledge there were no minutes of the celebration of May 28, 29 and 30, 1927. There were no minutes of the meeting or celebration held on Labor Day. This was not a Sabor in the sense of a meeting of the people and delegates of the diocese.

2339 MILAN RADAKOVICH testified as follows:

Direct Examination.

2340 My name is Milan Radakovich and I reside at 2643 South 8th Street, Milwaukee, Wisconsin. I have been a resident of Milwaukee for 57 years having come there in 1912 from Austria. At that time I was 19 years of age having been born in 1893. I am now 76
2341 years old. I am a member of the Serbian Orthodox Church and have been a member since birth. I was born in Gacista which is in Yugoslavia now, but at
2342 that time was in Austria. I met Bishop Nicholai in
2344 1921. I held several offices in my local church and
2345 from 1931 until 1941 was treasurer of the Serbian Orthodox Diocese for the United States and Canada.
2346 At one time I served as president of the auditing committee of the diocese.

2353 Plaintiff's Exhibit 9, purporting to be the charter of the corporation of which I was a trustee, refreshes
2354 my recollection as to who was assembled with Bishop Mardarije at the Libertyville discussion concerning my service as a trustee. Bishop Mardarije told
2356 everyone present that a corporation had been formed to hold the monastery property and the rest of the real estate in the diocese. I served with these other gentlemen as a trustee of that religious corporation.
2358 I am the M. Radakovich of Milwaukee listed in the certificate of incorporation on page 2 as trustee of that religious corporation. The date of it is May 15, 1935. Other than the meeting which we had with Bishop Mardarije in Libertyville 30 days after the corporation was organized, the trustees never held a
2360 meeting. To the best of my knowledge, no by-laws were ever adopted for this corporation. To the best

2361 of my knowledge, no constitution was adopted. To my knowledge, no resolution was ever presented to me as a trustee for action. (Offer Of Proof.) I never heard of any resolution being presented to my co-trustees. (End Of Offer Of Proof.)

2362 As a trustee, I was never called upon to sign any deed or any other document or paper on behalf of the corporation nor was any ever presented to me by anybody for that purpose. To my knowledge, no board of directors was ever selected nor was there ever a treasury. To my knowledge, the corporation never had money whatsoever.

2364 I am acquainted with the fact that Father Brkich applied earlier this year for assignment for a priest
2365 in my parish. I participated in discussions in considerations of that application with friends in private meetings and other gatherings we would have. The younger generation in the parish prefer the priests that were born in this country and that is eventually what happened. That is the reason Father Brkich's application was declined.

2366 I have attended and been a delegate to a number
2368 of Sabors. At no time did I ever observe or become aware of the taking of the record of the proceedings of a Sabor by a taperecorder. This is likewise true of all the council meetings which I attended. I at-
2371 tended a meeting in Libertyville on June 6, 1963, of a group called the Plenum. The purpose was the discussion of a report from the Patriarch in Belgrade directing Archimandrite Firmilian to take of the old
2372 diocese. The meeting was called by Bishop Dionisije.
2373 I was a member of the council of the diocese at the June 6, 1963, meeting and attended in that capacity.
2375 I do not recall how long the meeting lasted. Archi-

mandrite Firmilian was not present when the meeting
2376 opened, but arrived later and stated that he had received the letter from Belgrade to take over the diocese from Bishop Dionisije. He read the document at the meeting to that effect. It was my im-
2377 pression that this document was sent from the Holy Synod in Belgrade. Bishop Dionisije stated that he was not going to turn over the diocese.

2379 To the best of my recollection, there was no tape-recorder present at this meeting nor was any mention made by anyone that the whole meeting was being taped. No one ever requested my consent to record the meeting on tape.

2381 I have not received any notification from 1935 to the present concerning the termination of my trustee-
2382 ship. At no time did the sale of any property belonging to the 1935 corporation, of which I am a trustee come to my attention.

Cross Examination.

2388 When I arrived in the United States in 1913 there were approximately 5 or 6 other parishes in the country.

2391 I talked with Bishop Mardary two or three times about the corporation. To my knowledge I do not
2392 know whether the corporation ever had any board meetings, or whether or not it had a constitution, or whether or not any corporate activties were conducted at all. I am not familiar with Illinois law relating to religious corporations.

2393 My religious background consists of four years of grammar school and two years of high school in Austria. I never studied law nor theology. In Milwaukee, I owned a restaurant for 26 years and now

I am an insurance agent. I was at the meeting of the
2395 Executive Board of the Serbian Eastern Orthodox Diocese of the United States and Canada in May of 1963 when it voted to call a Plenum meeting on June 6th, 1963. I do not recall any of the conversation at
2396 that meeting. In 1931, when I was elected treasurer,
2397 the diocese was $31,000.00 in debt.

2398 *Redirect Examination.*

When the Milwaukee parish was organized there were 300 to 350 memebrs which is not to include
2399 women and children but only male members. Although I do not recall verbatum the discussion held at the meeting of June 6, 1963, my memory is clear regarding the substance of the conversation between Archimandrite Firmilian and Bishop Dionisije.

2425 MILAN RADAKOVICH testified as follows:

Redirect Examination (Continued).

2426 I have examined Defendant's Exhibit 11 which are the original minutes of the 1931 Sabor. This
2431 document is signed by Bishop Mardary.

2433 *Recross Examination.*

2434 Bishop Mardary's signature appears under the heading president and on the left side of the signature page is a large heading secretaries and then there are also two unnamed secretaries under that. In the center of the page is the heading witnesses and under it are two signatures of the persons who witnessed the signing of the minutes.

Further Redirect Examination.

This was a Sabor at which I was first elected a member of the council. On page 18 of these minutes paragraph 3A recites that I was elected treasurer of the diocesan board unanimously.

BISHOP FIRMILIAN OCOKOLJICH testified as follows:

Direct Examination.

My name is Bishop Firmilian Ocokoljich and I was born January 7, 1910. I am a Bishop of the Serbian Orothodox Church and was born in the Village of Kaona, Serbia, which is now Yugoslavia. Both my father and my grandfather on my mother's side were priests in the Serbian Orthodox Church. My twin brother is a priest in Serbia, and my two nephews are priests in this country; one in Pittsburgh and the other in Chicago. All of my cleric relatives pay allegiance to the Serbian Orthodox Church with its Patriarchate in Belgrade. My education consists of four years in grade school, four years in gymnasium, five years at the theological seminary, four more years in the theological faculty, and during the war I attended graduate school at Oxford University. I completed my education at the University of Chicago, where I received a Doctorate in Medieval History. I was ordained in October of 1931, first as a Deacon, and two days later as a priest. I was ordained by the late Bishop Jefrem Zhica. I was ordained in the secular order and immediately began working as an assistant to my father in his hometown parish.

My wife died in 1934 and I was assigned to teach in a grade school in Belgrade, and at the same time

I enrolled to study at the University of Belgrade Theological Faculty. I was then appointed clerk of the Holy Synod and was then instructed to go and teach in the Serbian Orthodox Seminary in Cetinje. I returned to Belgrade in 1938 and resigned my position as clerk in the Holy Synod and went to the Monastery of Ocosokovo, where I became a Monk. At that time I took the name Firmilian. In 1939 when Bishop Dionisije was elected Bishop of the American-Canadian Diocese by the Holy Assembly of Bishops, he wrote me a letter and asked me to go with him and help him. I accepted that invitation and in 1940 we came to the United States together. The Bishop appointed me secretary of the Diocese with an office on Dearborn Street in Chicago. A few months later the bishop moved the office to St. Sava Monastery in Libertyville, and that is where I worked. I served services in the Monastery on Sunday and also was appointed to serve in the Serbian Orthodox Church of St. George in Joliet. In 1941 I was appointed by Bishop Dionisije to the congregation of St. Lazazrus in Detroit, Michigan, where I served until 1943, when the Bishop asked me to go to England. Once there, I was appointed to be Assistant Priest to Father Ristanovich, who was serving at that time in London. The Government of Yugoslavia was in exile in London and I used to go and teach Prince Tomislav and Prince Andrey religious instructions in the Serbian language. During this period I enrolled in Oxford. After the war in 1954, I was recalled by Bishop Dionisije and reappointed secretary of the American-Canadian Diocese. The rector of the Holy Resurrection Church in Chicago became ill and the bishop appointed me to help him, and when he died I was elected to be pastor of that church. During this period I

still served as secretary to the diocese and travelled between Chicago and Libertyville receiving instructions from the Bishop and attending to correspondence. Bishop Dionisije organized a seminary in Libertyville and I came from Chicago to teach five or six Monks who were studying there different subjects.

In 1949 the Bishop instructed me to resign my position in Chicago and appointed me priest of the Ser-
2524 bian Orthodox Church of St. George in Pittsburgh. We were having difficulties with that church as the congregation did not belong to the Diocese, and the Bishop told me I had six months to solve the problem. At that time some of the congregation were involved in litigation. They had elected a Russian priest and some of the people wanted a Serbian priest. At an annual meeting of the congreation I was elected priest and confirmed by Bishop Dionisije. I immediately began working to solve the problems of that congregation and in about two months the members decided to join the Diocese. That was the only Serbian congregation in America outside of the Diocese and they changed their charter in this respect and were registered. Originally, the church was St. George Serbian Orthodox Church, but later on they added Independent Serbian Orthodox Church. Then again in 1949 they eliminated that independent and
2525 became the Serbian Orthodox Church of St. George and joined the Diocese. After I successfully finished my assignment which took about eleven months, Bishop Dionisije asked me to return to Libertyville. After
2526 my return the Shadeland property in Pennsylvania was purchased. It is about six miles south of Albion and about 35 miles south of Erie.

2527 I collected money from the Serbian people in the American and Canadian Diocese. When I arrived at Shadeland all of the 1,400 acres had been acquired. The property was first bought by Bishop Dionisije
2528 personally and then the Diocesan Council decided to take over the property and the bishop received from the diocese the money he had invested in this property and he turned the property over to the diocese. Diocesan funds were used to reimburse Bishop Dionisije. The Serbian National Federation collected some money from the people in the diocese and paid the balance of the mortgage on the Shadeland property. When the diocese purchased the Shadeland property from Bishop Dionisije, the property was then burdened with a mortgage which was later paid. These Serbian people were members of various congregations of the church. The Serbian National
2529 Federation is a benevolent national organization throughout America and Canada organized about 70 years ago and they really helped collecting money from the Serbian people to pay off the mortgage. When I was at Shadeland trying to collect money I wrote to Mr. Samardick in Omaha whom I did not know but who was a member of the Serbian Orthodox Church of St. Nicholas in Omaha. I expected that he would send $50 or $100 but one day I received a letter
2530 from him informing me that he was going to donate $5,000 toward this property. In 1953 he sent two men, Mr. Zemunski and Mr. Churchich, who came to see the property and were amazed at its size and the work we were doing. They told me they would return and give a good report to Mr. Samardick. Then Bishop Dionisije instructed me to return to Libertyville and appointed Father Irinej Kovacevich to take my place

at Shadeland. In 1956 I resigned my position as sec-
2531 retary and Bishop Dionisije accepted it. I had previously been appointed a bishop's deputy which is a position provided for in the Constitution of the Serbian Eastern Orthodox Diocese for the United States of America and Canada that when a bishop is sick but not able to attend different meetings I as bishop's deputy according to these instructions was to take his place and preside over the meetings, but only according to his instructions. I remained in that post and was elected and appointed priest of St. Sava Cathedral in New York in '57. I was appointed to the office of bishop's deputy in 1946 and remained so
2532 until 1963. Serving in New York was very difficult as the parishioners were spread out through New Jersey, Connecticut, and Massachusetts and there were large numbers of refugees coming to the United States from Yugoslavia through New York. I tried to provide them with funds and help them find jobs.
2533 The National Council of Churches is an organization of all Protestant and Eastern Orthodox Churches with their headquarters in New York and Bishop Dionisije appointed me to represent the Serbian Orthodox Church in New York in the National Coun-
2534 cil of Churches. I also represented him occassionally at the standing conference of Orthodox canonical bishops which was organized in New York and is an organization representing the different orthodox churches including the Serbian Orthodox Church. I went with Bishop Dionisje to the organizational meeting and I was elected general secretary of the organization. I continued in that position until 1962 when I resigned from the parish in New York and came to Pittsburgh. While in New York I was elected

2535 assistant professor at St. Vladimir's Theological Seminary.

2537 When the delegation headed by Metropolitan Damaskin arrived, I was ordered by Bishop Dionisije to meet them at the airport. The mission of the delegation was to discuss with Bishop Dionisije some problems of the church in the United States and Canada. The bishop had proposed that his diocese should be levied to the rank of Metropolia and he asked that more bishops be elected. He had made this request
2538 to the Holy Synod of the Serbian Orthodox Church and to the Patriarch and Holy Assembly. The dele-
2539 gation returned to New York and I again met them at the airport and provided lodging for them under instructions from Bishop Dionisije. I received the communication at the end of October in 1962.

2540 PX 116 is a translation of a letter I received from Bishop Dionisije on or about October 27, 1962. Part
2543 of this letter contains a reference to the bishop's desire that I be made one of the Vicar Bishops in the event there is an assistant bishop appointed. I re-
2545 plied to his letter stating that I would accept were I nominated as a bishop. The letter goes on to state
2547 that the bishop wants a successor from this country and mentions the fact that there are two groups trying to unseat him as bishop. The Ljotic group is a political organization in Yugoslavia organized before the Second World War and some of them came to
2548 the United States. The devernja refers to a profes-
2549 sor of theology who is not a cleric. On page one is a reference to the fact that the Constitution provides that his Holiness the Patriarch is the only one permitted to have a Vicar Bishop and the Constitution referred to is that of the Mother Church. The Dras-

kovic group referred to in the last line of this paragraph is a political group of Serbian people in America headed by Dr. Draskovic who is not a medical doctor but holds a Ph.D. The Nikola Stepanovich mentioned in the fourth line is an attorney from East Chicago, Indiana, and has been sitting at counsel table here. In November of 1962, I had occasion to attend the meeting of the Diocesan Board of the Serbian Orthodox Diocese of the United States and Canada. This meeting was called by Bishop Dionisije at the Libertyville St. Sava Monastery. I examined PX 115 which is a list of the clergy and laymen present at that meeting. The visiting delegation consisting of the two bishops and the protodeacon attended this meeting of the Diocesan Executive Board. At the close of the Diocesan Executive Council meeting the delegation returned to Yugoslavia.

FIRMILIAN OCOKOLJICH testified as follows:

Direct Examination continued.

After telling Bishop Dionisije that I would accept the position as Vicar Bishop I resigned my position at the parish in New York and at St. Vladimir's Seminary and prepared to accept the new assignment to Bishop Dionisije. I was then told with Metropolitan Damaskin on one of his several visits to New York that Bishop Dionisije had changed his plans. I believe this was prior to the November 1962 meeting of the Diocesan Executive Committee. Then Bishop Dionisije reported to the Executive Council, Diocesan Council, and Diocesan Executive Council on November 23rd that I was appointed priest of St. Sava parish in Pittsburgh, Pennsylvania. I served in that

parish from December 9, 1962, to the middle of June 1963. In June of '62, I received a communication from Bishop Dionisije and PX 117A is a document I received by mail about June 30th. It is signed by Bishop Dionisije. The document begins, "Greetings and blessings," and continues, "since our announcement of June 1st of this year it looks." This was the so-called important announcement and was labeled as such by Bishop Dionisije. The announcement was carried in Serbian newspapers in America. The publication of the announcement had an effect on Serbs in this country. I was personally acquainted with the effect on these people. Bishop Dionisije came to New York about June 20th to participate at my invitation in an annual so-called June celebration and at the same time he consecrated a new Ikonstasis in the church of St. Sava in New York. When I met the bishop at the airport I told him of the important announcement was receiving very heavy criticism from the people of my parish and that I myself expressed displeasure. I said "Your Grace, this important announcement is like you declaring war on the Serbian Orthodox Church." He explained that he had received a report from Father Brkich from Belgrade and that was the reason he wrote the important announcement. A few days later I received the letter which is PX 117.

When I read this communication I was very happy and read it openly in my parish in New York. The letter is dated June 30, 1962. There was a meeting of the Diocesan Executive Board on April 17, 1963, in the residence of the Bishop at St. Sava Monastery in Libertyville. I attended the meeting. PX 85 is an English translation of the Resolution made at the

meeting of April 17, 1963, by the Diocesan Executive Board. The original Resolution was signed in Ser-
2630 bian by each of those whose names are listed on page 2, including myself. The Resolution was put to a vote by all of those who were present and they voted for the Resolution unanimously. The Resolution was
2631 then mailed to all of the clergy and published in the Serbian newspapers. During the discussion proceed-
2632 ing the adoption of this Resolution, Bishop Dionisije asked what the Executive Board would do in the case he was removed by the Holy Synod, and this statement was in answer to his question. Bishop Dionisije voted for this Resolution and signed it. On May 8
2633 and 9, 1963, we had a meeting of the clergy brotherhood of the American-Canadian Diocese in Lorain,
2634 Ohio. Bishop Dionisije attended that meeting as did a majority of the clergy of the Serbian Eastern Orthodox Diocese for the United States and Canada. Those from the West Coast generally did not come, as it was too far. Two clergymen were selected from
2635 the group to write a Resolution which was read and corrected by Bishop Dionisije, and then all of us who participated signed the Resolution. PX 86 for identification is a two-page document entitled Resolution of the Annual Meeting of the Clergy Association held May 8 and 9, 1963. On Page 2 is a list of names who are the members who attended that meeting and
2636 signed it. Bishop Dionisije was the first one to sign
2641 the document. I believe the original copy of this Resolution was taken by Father Tomich who was then President of the Association. I know that this document was used in Cleveland, Ohio and I am positive you can obtain a photostatic copy of the original doc-
2642 ument. I have not seen the original copy of this document from the date of signing to the present day.

2643 The document was read to me at the time I signed it.
2645 Offer of proof. PX 86 is a correct and accurate translation of the document which I signed in Lorain on May 8 and 9, 1963. End of the offer of proof.

At that meeting we decided on further action and sent a telegram to the Patriarch and Holy Assembly of Bishops stating again our loyalty to the Mother
2646 Church. PX 118 is a telegram to which I made ref-
2647 erence. There is a list of names on the telegram including Bishop Dionisije's and my own, which represent people who voted for the sending of this telegram. There was no dissent. After this meeting I
2648 returned to my parish in Pittsburgh and about two weeks later received a letter from the Holy Synod of the Serbian Orthodox Church.

2649 I recognize PX 3-C, which is a document addressed to me which I received in May. It bears the date May
2650 10, 1963, and arrived by mail from the Holy Synod of Bishops. It is signed by Bishop Emilijan of Timok, and he signed the document as a member of the Holy
2651 Synod. To the left of his signature appears an ink impression which is the seal of the Holy Synod, and this document is in the same condition as when I received it. PX 3-B is an English translation of 3-C. I first saw document 3-B several days after the date of the document, which is—June 26, 1963. I received this translation through the mail from the secretary
2653 of the Holy Synod of the Serbian Orthodox Church.

PX 3-A is addressed to me and the signature is that of the Bishop of Timok. I received this document
2654 in May, shortly after the date it bears, May 10, 1963.
2655 PX 3 is an accurate English translation of Document
2667 3-A. Following my receipt of plaintiff's Exhibits now in evidence, 3-B and 3-C, I received further com-

munications from the Holy Synod. I received a document in which I was informed about the reorganization of the American-Canadian Diocese into three
2668 dioceses. I have examined PX 5 for identification and state that it is in the Serbian language and this is the document which I received which I have just testified about. On the back of this document is a statement above the signature, "President of the Holy Synod of Bishops, the Serbian Patriarch German." To the left of this and the signature there is an inked imprinted seal which belongs to the Holy
2669 Synod of Bishops. The signature appearing on the back is that of Patriarch German. Below this there appears a certification in English by the Consul of the United States of America in Belgrade. PX 5-A which is in English is a translation of the original. I
2670 received Exhibit 5-A at the end of June in 1963 through the mails. It was dispatched to me by the secretary of the Holy Synod.

2672 *Cross Examination.*

2673 The English translation, Exhibit 5A, does not correctly translate the addressee on Exhibit 5. It should read "The Venerable Archimandrite Dr. Firmilian Ocokoljich, Administrator of Midwestern American Diocese."

Direct Examination resumed.

2682 (The Court admits Exhibit 5 and 5A as amended) I received Exhibit 7A. It is addressed to "Very
2684 Reverend Stefan Lastavica, Administrator of the
2689 Mideastern American-Canadian Diocese, Windsor."
2690 I saw PX 7A in June when I had a meeting in Penn-
2707 sylvania. The letter I received is identical to PX 7A

except for the addressee. We went to Shadeland about ten o'clock and the administrator told us that he was ordered not to allow us to enter any building.
2711 We stayed under a tree and discussed our problems.

Cross Examination.

The material between the quotation marks was substantially the same in each of the letters. One letter was addressed to Lastavica as Administrator of
2712 the Mideast, another addressed to me as Administrator of the Midwest, and the third addressed to Gregory as Administrator of the Western. Another letter containing the same quoted material was addressed to His Grace Bishop of Middlewestern Amer-
2713 ican Diocese Lord Dionisije. Exhibit 7 is not a translation of 7A. I had an original document which I
2714 gave to my lawyers. The addressee on the Serbian
2724 document 7A is "Very Reverend Protopresbyter Mr. Stevan Lastavika, Administrator of the Middle Eastern American-Canadian Diocese, Windsor."

2725 (PX 7, 7A, 7B, 7C, 7D, 84A and 119A are admitted in evidence.)

2726 *Direct Examination resumed.*

2728 After the receipt of the documents marked PX 7 through 7D and the clergy Resolution now admitted as Exhibit 86, I received further communication from Bishop Dionisije at the beginning of June, 1963. I have examined Exhibits 120 and 120A, and 120A is a communication to which I have just had reference.
2729 Exhibit 120A is signed by Bishop Dionisije whose handwriting I recognize. At that time I was Parish Priest of St. Sava in Pittsburgh and this letter came
2730 by mail. PX 120 in English is a translation of 120A.
2731 Following my receipt of 120A I had occasion to dis-

cuss the subject matter of that letter with Bishop Dionisije. I discussed this when he came to Pittsburgh sometime in June of 1963. That was after June 6, in 1963. After receipt of PX 120A, I had occasion to discuss its subject matter with Nicholas Stepanovich. The subject matter of PX 120A or any of the items to which references made in that Exhibit were discussed at a general meeting called a Plenum which
2732 I attended on June 6, 1963 at St. Sava Monastery.
2733 Mr. Stepanovich told me that a meeting had been held with Bishop Dionisije, Father Milan Burkich, Father Velimir Kovacevich, Father Jovan Marcetich, at the Monastery, and at that meeting Mr. Stepanovich had asked Bishop Dionisije to obey the orders from the Holy Synod of Bishops and Holy Assembly, and Bishop Dionisije had promised, "don't worry, everything will be all right."

2734 On June 2, Sunday, I was preparing myself to go to church to serve the Holy Liturgy at about eight o'clock in the morning when he again called me on the telephone and informed me "we called Diocesan Plenum". I said who called, and he said we, I again asked who, and he said that the invitation for the Plenum was to be on the 6th of June, and that the invitation was signed by Archimandrite Dimitrije Balach, Dr. Seferovich, Jovan Marcetich, and himself, that is, Mr. Stepanovich. I protested immediately, saying that they did not have the right to summon the meeting. He said Bishop Dionisije had authorized this and I replied telling him he knew Bishop Dionisije was suspended not only from performing offcial ceremonies in the church, but from all administration of church affairs, and that I was the only person who could call a Diocesan meeting. He asked me please

2735 not to object as they would like to peacefully remove Bishop Dionisije from Libertyville. I told them I was going to attend the meeting, but that I did not want to see Bishop Dionisije there. He replied that Bishop Dionisije will not attend the meeting, and with that understanding I agreed to come to Libertyville. The next day was Monday, and a meeting was held at Shadeland with about 15 clergymen. We were
2736 not permitted to enter the building there at that time. The clergymen with whom I discussed this matter
2739 advised me to go to Libertyville and try to take administration of the American-Diocese.

2740 On Wednesday, June 5, before going to Libertyville, I had occasion to stop and talk with Mr. Stepanovich in his office in a Bank in East Chicago, Indiana. I told him that if a meeting was going to be held I would have to preside, as I was administrator of the Diocese. He told me that he thought Dr. Sef-
2743 erovich should preside. I suggested to Mr. Stepano-
2744 vich that I call a Sabor of the American-Canadian Diocese to present the issue of the creation of three new dioceses. If the Sabor by a majority decided they did not want three dioceses, I told him that in that case I would ask the Holy Synod or Holy Assembly of Bishops to reconsider their decision of May 10, 1963, when they reorganized the American-Canadian Dio-
2745 cese. He did not agree with my suggestion. Nothing
2746 was said at that meeting concerning the subject matter of Bishop Dionisije's surrendering the administration of the Diocese to me. When the conversation ended, the two clerics who accompanied me and I, left Mr. Stepanovich's office and went to Chicago, and called on Dr. Sefer, who was at that time vice-president of the Diocese and the one who had signed this

summons for the meeting of June 6. I telephoned him
2747 and he invited me and Father Marcetich to his home in Berwyn. We went to his home that evening and arrived at ten o'clock in the evening. We discussed this matter and Dr. Seferovich said, "I am going tomorrow to Libertyville and I will, with my own hands, take care of Bishop Dionisije. I will throw him out."
2748 He told us that the church would stay one and undivided as was promised on April 17, 1963. Then Dr. Seferovich told us about the meeting that was had in Libertyville on May 27 or 28. He said that Mr. Step-
2749 anovich protested very vigorously against some of the writings of Bishop Dionisije and asked him in plain language to resign, and Dr. Sefer told me that Father Burkich went even further to offer Bishop Dionisije a pension in the amount of the salary he was receiving as Diocesan Bishop. He told us that they agreed and Bishop Dionisije promised to be silent. He quoted Bishop Dionisije as saying "I am going to be silent like a fish. I am not going to write anything anymore about the church. I am not going to sign any documents anymore." No writings of Bishop Dioni-
2750 sije were referred to or discussed at the meeting in the doctor's home in Berwyn. After the bishop re-
2751 ceived the message from Belgrade that he was suspended he issued some pamphlets and directed the clergy to notify the Church School Congregations that he was not going to obey the decision of the Holy Assembly of Bishops. PX 74 is one of the writings to which I have referred. I first saw this document three or four days after May 25, 1963, and I received it in
2752 the mail from the Office of the Diocese in Libertyville. Bishop Dionisije's signature appears on page 3.

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2784 BISHOP FIRMILIAN testified as follows:

Direct Examination continued.

PX 76 is one of the documents to which I made reference that Bishop Dionisije published. I have
2786 examined these exhibits and can state that the first paragraph of exhibit identified as PX 84B, is the same or substantially the same as the first paragraph of that identified as PX 76. The second paragraph of 76 when compared to the paragraph on Page 60 of Exhibit 84B are substantially the same. The two
2787 paragraphs, each numbered 1 in these two exhibits, are substantially identical. There are a number of
2793 other paragraphs in these exhibits, which are substantially identical. The date on PX 76 is June 3,
2794 1963, and PX 84B is May 27, 1963.

2802 *Direct Examination resumed.*

2807 After my meeting with Dr. Seferovich we retired for the evening and in the morning at nine o'clock, Dr. Seferovich, Father Dimitrijevich, and Father Marcetich drove together to Libertyville and I followed them in another car. I had trouble with my
2808 car and when I arrived at Libertyville, the Plenum meeting had already opened. The word Plenum is mentioned only once in the Constitution of the Serbian Eastern American-Canadian Diocese and according to the Constitution the Diocesan Council of 12 members is divided into two sections, finance-executive and religious-education. If there is a dis-
2809 agreement by a committee under the educational, executive, or religious group, an appeal may be taken on a decision of the Diocesan Council which decides in full session, meaning that both of these sections come together and decide at Plenum. The meeting on

June 6, however, was not a meeting of the Plenum as I have described it. In addition to the members of the Diocesan Council which were elected by the Sabor, different committees as the Committee for Shadeland, the Committee for Jackson, and the Committee for the Monastery, and members of the Ecclesiastical Court, were invited. These groups were not part of the Plenum as provided for in the Con-
2810 stitution. They did participate in the meeting, how-
2811 ever, and were permitted to vote. When I arrived and entered the building I was very much surprised to see Bishop Dionisije at the head of the table. I stopped at this point and remembered that Mr. Nicholas Stepanovich invited me to attend this meeting and promised that Bishop Dionisije was not going to be present. I then went to the kitchen which is located in front of that hall. I asked for a cup of coffee from the ladies and several minutes later Mr. Nicholas Cuvraja, who was a gentleman identified here as a
2812 treasurer, came to the kitchen and greeted me in a very friendly manner and asked me why I didn't attend the meeting and help them solve the question peacefully. I then entered the meeting hall. I greeted all of those who were present, first Bishop Dionisije, then Father Archmandrite Dimitrije Balach, and then Dr. Seferovich. I greeted the others and the session continued. I was trying to speak but was
2813 not allowed to. Mr. Nicholas Stepanovich was not far from me and was trying to pull my sleeve down and said, "Be calm, be calm, everything will be all right." Father Alexander Dimitrijevich spoke almost 45 minutes stating that we should invite Bishops from the Old Country to investigate the charges against Bishop Dionisije and if Bishop Dionisije was

guilty, Dimitrijevich said, "I am going to be the first one against him." The Plenum did decide to invite the Commission to America and a telegram was sent to the Holy Synod of Bishops in that regard.

2814 PX 15A is the telegram in Serbian which was dispatched by Dr. Uros Seferovich about which I have just testified. Another issue discussed at that meet-
2816 ing was the Sabor called for October be moved to an earlier date. The 6, 7 and 8 of August in Libertyville were proposed by Protopresbyter, Mr. Polich, and that was seconded. I did not make a special objection.
2817 After lunch I returned to the meeting and the Secretary of the Diocese who was at that time Archmandrite Dimitrije Balach, read decisions received from the Holy Synod, #1664, concerning the reorganization of the Diocese. This was the topic of discussion.
2826 When Father Balach read Decision #1664, he also read what appears as the body between the quotes of PX 3A. He also read what appears between the quotation marks in PX #5. He also read what appears in quotes of PX 7A, Order #1726. After
2827 reading these three Orders, I again read the decision of the Holy Bishops' Synod. This was Decision #1664, Minute #188, and I told the meeting that I was appointed Administrator of the Diocese and I was asking Bishop Dionisije to turn over administration of the Diocese to me. I was referring to the Ameri-
2829 can-Canadian Diocese. I told them that I did not ask for this responsibility, but the Holy Synod had ordered me and I was following my orders. I begged Bishop Dionisije to obey the order and went further to state that I would return the whole Diocese if the Commission that we asked will say that the Bishop was not guilty of the charges. I emphasized the

words, "Give the Diocese to your Episcopal Deputy." I was the Episcopal Deputy of the American-Canadian Diocese. Bishop Dionisije then said in a
2830 loud voice, "I am not going to obey the orders of the Holy Synod." I then told Bishop Dionisije that as long as he recognized the authority of the Holy Synod of Bishops and the authority of the Holy Assembly of Bishops, he was my Bishop, but now when he refuses to recognize the authority of the highest church authorities, he was no longer my Bishop. At this time I left the meeting and went out. Three or four clergymen went with me and Mr. Topo Polich came out of the building, and I was still in the vicinity where the meeting was being held and he asked me why I did not return. I told him that this was the
2832 beginning of disunity between the American and Canadian Diocese and the Mother Church and that I could not return. Then I went with Father Miatovich.
2840 PX 121 is a copy of a letter I wrote from Milwaukee to Dr. Uros Seferovich when I read the invitation to the Sabor which was to be held on August 6th, 7th and 8th in Libertyville. This letter was prepared
2842 after the meeting of June 6th and perhaps 10 to 15 days before the meeting in August. At a meeting in
2843 the Sherman Hotel on July 4th Mr. Stepanovich took this letter out of his pocket, PX 121, and asked me if I wrote it. When I told him I did he asked if it was an ultimatum and I replied no. PX 7E is a document
2849 I discovered among my books and records and is a photostatic copy of Order No. 1726 that I received from the Patriarchate. This thermofax copy was
2851 produced in my presence and I have searched for the original but have been unable to find it. This docu-
2853 ment recites that Bishop Dionisije is suspended and

the diocese is divided into three parts and administrators are appointed on a temporary basis for each of the three new dioceses.
2856 PX 123 purports to be a letter on the letterhead of the Serbian Eastern Orthodox Diocese for the United States of America and Canada and is dated June 29, 1963, and is signed by Bishop Dionisije. This document is addressed to the Very Reverend Simeon Grozdanovich, Monastery of the Holy Mother of God, Shadeland, Springboro, Pennsylvania. This is
2857 a cleric who was at that time working at the Diocesan property in Shadeland. I first saw this document several months after the date which appears on it and it was given to me by Father Grozdanovich in Cleveland, Ohio, where he served in a church loyal to the late Bishop Stefan Lastavich.

Offer of proof. The letter apologizes for the Bish-
2861 op's inability to come to Shadeland for the Slava there. It announces further the arrival of a new commission from Belgrade and states that they are not guests of the Diocese and should not be received. It goes on to forbid that Stefan Lastavica be permitted to use the chapel at Shadeland. This is the
2862 commission that was discussed at the June 6th, 1963,
2863 meeting. The members of the commission were Bishop Hrisostom, Bishop Visarion and Proto Mladen Mladenovich and Proto Deacon Bozo Petrovich. End of the offer of proof.
2866 I am acquainted with Father Klipa who is pastor
2867 of the Serbian Church in Clairton, Pennsylvania, and is Vicar General of the Eastern Region of the American-Canadian Diocese. PX 124 is a letter on the letterhead of the Serbian Eastern Orthodox Diocese for the United States of America and Canada dated June

14th, 1963, signed by Bishop Dionisije and addressed to the Reverend Klipa. In one of the lower corners
2869 of this document is written in longhand, "Proto Milan Brkich is also relieved of the duty of Vicar General".
2871 The text of this letter recites that the priest was appointed as Episcopal Vicar for the Eastern States of America and performed well but that cooperation with the reorganization of the Diocese, and with the future Bishop Stefan Lastavica, and the summoning of an assembly of clergy in Clairton, Pennsylvania,
2872 without permission. It resulted in impressing the diocese with the fact that he had renounced cooperation with the Bishops and was in conflict with the constitution and therefore is relieved of further duties as Vicar General. I recognized what has been
2874 marked as Exhibit 125 under the American-Canadian
2875 Diocese letter head dated June 14, 1963, and signed by Bishop Dionisije. This is a copy of the original letter which was mailed to me and which I received a day or two after this date. At the time I received
2876 this I was still a priest in Pittsburgh. This letter is addressed to the executive board of the clergy association of the Serbian Eastern American-Canadian Diocese in care of Proto Presbytere Tomich, President, Aliquippa, Pennsylvania. This letter states that
2877 though the clergy association was warned to adhere to the by-laws of the diocese they did not do
2878 so and therefore the Bishop revokes recognition of the clergy association and calls upon all of the clergy not to participate in the work of the association which is supporting the idea of division of this diocese. The letter cites the fact that the association supports the Holy Assembly of Bishops' illegal act of dividing the diocese into three parts and the illegal suspension

2879 of the Bishop. The Holy Bishops' Synod and Assembly referred to in that letter is the highest authority in the Serbian Orthodox Church. The referent's letter to the constitution of our church in general refers to the constitution of the Mother Church with its see and Patriarchate in Belgrade, Yugoslavia.

2881 I have examined PX 106A which are the minutes of the Diocesan Plenum of the Serbian Orthodox Diocese for America and Canada held in St. Sava Monastery in Libertyville, June 6th, 1963. This document
2882 lists people attending that meeting, some of whom were members of the diocesan council and some of
2889 whom were not. There is nothing in the diocesan constitution which provides that diocesan council mem-
2891 bers may vote by proxy. None of the proceedings reported on the first page of PX 106A occurred while I was present as I arrived after the meeting had opened.

2895 The commission which the meeting of June 6, 1963, requested be sent to America did arrive. I refer to
2896 it in Exhibit 15A. I met the commission when it arrived in America and accompanied it to Pittsburgh where we were met by Stefan Lastavica and Archimandrite Gregory Udicki and some of the clergy from the Pittsburgh area. Thereafter we went to Shadeland. Bishop Chrisostom officiated at a short service in which Stefan Lastavica became a Proto-Singlos which is a monastic order. At this time Father Grazdaovich did not invite us to the residence nor offer us anything. We then went to Lackawanna,
2898 New York and the commission wrote to Bishop Dioni-

sije informing him of their arrival and making an appointment to meet with him in the Monastery of St. Sava in Libertyville. Thereafter, we left for Chicago and it was shortly before the 4th of July. I had occasion to attend the meeting in the Sherman House on July 4th.

2903 Bishop Chrysostom opened the meeting and stated with some of the members of the diocesan council and the legal advisor. Those present were Bishop Chrysostom, Bishop Visarion, Mr. Milan Radakovich,
2900 Father Milan Brkich, Mr. Maravich, Mr. Nicholas Stepanovich and Dr. Uros Seferovich. Mr. Stepanovich took a letter from his pocket and stated that the Patriarch had taken over administering the diocese. I told him I believed he was wrong and actually the letter stated that the Patriarch had taken over some Episcopal prerogatives and dispensations. Only
2901 bishops may give dispensations, and as Bishop Dionisije was suspended, there were no bishops in this country to give dispensations and the Patriarch had taken over this duty.

2903 Bishop Chrisostom opened the meeting and stated that the Holy Synod of Bishops had received the telegrams of the Plenum and that *this* delegation was willing to do anything to peacefully solve the questions. The Bishop asked why this group opposed the decisions of the Holy Synod and Dr. Seferovich said loudly, "We want to rule the diocese." He then
2904 listed several priests whom he said they had removed and pointed his finger at Father Brkich and told him that he was next. Nicholas Stepanovich asked if the August 18th Sabor would be legal and Bishop
2905 Chrysostom stated yes if it is presided over by Firmilian.

2906 PX 126A is the original of a letter I received from the Holy Bishop's Synod number 1987-minutes 267, June 13th, 1963, Belgrade. It is signed by Emiljan, Bishop of Timok and it bears the seal of the Holy
2907 Bishop's Synod. This is the letter which Mr. Stepanovich referred to concerning the Patriarch's assumption of dispensations.

2910 When I arrived at Libertyville on both June 6th and July 4th, Mr. Nicholas Stepanovich was operating some instruments and I saw a microphone, but I do not recall whether there was a tape recorder there or not. At neither meeting was my permission requested to tape the proceedings.

2911 Following the meeting on the 4th of July the com-
2912 mission went to Libertyville and after finishing there went to Milwaukee where the two bishops wrote a communique to inform the clergy of the Serbian
2913 Orthodox Church and the people in America what had happened the previous day in Libertyville. PX 17 is that communique that was composed by the
2914 commission at St. Sava Church in the parish house in Milwaukee. The communique was mailed from Milwaukee to all clergy, church school congregations and all Serbs in America and Canada.

2916 After travelling about, the commission arrived in Pittsburgh and on July 13th Stefan Lastavica was consecrated bishop at St. Elijah Serbian Orthodox Church by Bishop Chrysostom and Bishop Visarion.

2923 I was consecrated as a bishop on August 1st, 1963, and PX 89A is the Grammata which I received, issued by the Holy Synod of the Serbian Orthodox
2926 Church confirming my consecration. Prior to my consecration I received a communication from the

Holy Synod with respect to Bishop Dionisije. PX 9
2927 is that communication and it contains the hand writ-
2928 ing and signature of Patriarch German. This document also bears the seal of the Holy Bishop's Synod of the Serbian Orthodox Church. PX 10A is in the Serbian language and is addressed to me and I received it approximately 2 days after the date it bears, July 31, 1963. The signature is that of Patriarch German and the ink seal to the left of the signa-
2929 ture is that of the Holy Bishop's Synod. I received this in my capacity as a newly elected Bishop of
2934 the Midwest American Diocese. PX 22A dated March 16, 1964, is a communication from the Patriarch with respect to the judgment of the Holy Assembly of Bishops concerning Bishop Dionisije which I received. I received it as Bishop of the Midwest American Diocese and the signature appearing on that document is in the hand and is in fact the signature
2935 of Patriarch German. This document bears the seal
2939 of the Patriarch. PX 22C is a communication which I received at about the same time from the Holy Synod concerning the entry of judgment against Bishop Dionisije.

2948 *Cross Examination.*

2949 PX 30, the diocesan constitution was published in 1939. There have been amendments and they do not
2950 appear in this translation. (PX 30, 31, 31A, 32, 32A,
2952 33, 33A, 34, 34A, 35, 35A, 36 and 36A are received in evidence). (DX 38 and 38A are received in evidence).
2954 (DX 37, 37A, 39, 39A, 39B and 39C are received in
2959 evidence). (PX 40, 40A, 40B, 40C are received in evidence).

2988 *Direct Examination resumed.*

I have examined PX 55C and have seen this after
2989 July 27, 1963, when it came to me as a Bishop of the Serbian Orthodox Church from the Holy Bishop's
2990 Synod in Belgrade by mail. Copies were sent to members of congregations throughout the United States and Canada. These copies were mailed by myself, Bishop Stefan and Bishop Gregory.

I recall the meeting in Libertyville on the 23rd of
2991 November, 1962. I recall there was Metropolitan Damaskin who was speaking about the requests made by Bishop Dionisije that the diocese should be changed. Metropolitan Damaskin was speaking to
2992 the assembly in Libertyville attended by Bishop Dionisije and myself and the discussion centered on the proposal made by Bishop Dionisije that the diocesan name be changed to *Metropolia* and that the
2993 borderline of the diocese extended to include the territory of South America. Metropolitan Damaskin advised Bishop Dionisije to write a letter to the Holy Assembly of Bishops with this proposal as the assembly was the only body that could decide on the question. He further explained that only the Patriarch was permitted by the constitution of the Mother Church to have Vicar or assistant bishops. Metro-
2994 politan Damaskin requested that the matter of church problems not be discussed through American newspapers, but that if anything was to be written, it should be sent to the Holy Synod of Bishops or to the Holy Assembly. He said he would do everything in his power to help the church in America and Canada. The Metropolitan also stated that only the Holy Assembly can elect a diocesan or assistant bishop.
2995 Bishop Dionisije agreed to write the Holy Assem-

bly concerning the question of South America. He further stated that he realized they reminded him not to write because of his articles in the Serbian newspapers and he promised he would not do that.

2998 I received PX 59A a few days after its date of September 3, 1963, from the Holy Bishop's Synod through the normal mails. It is addressed to me as "Your Grace Fermillion, Bishop of the Midwest Serbian Orthodox Diocese."

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3066 BISHOP FIRMILIAN OCOKOLJICH:

Direct Examination resumed.

I recognize PX 78A which I received shortly after June 28, 1963, from the Diocesan Office in an official diocesan from Libertyville. I was still in Pittsburgh,
3069 Pennsylvania, at that time. I recognize PX 79A which I first saw a few days after June 28, 1963, receiving
3070 it from the American-Canadian Diocese in Libertyville.

3073 *Cross Examination.*

3074 I did not receive PX 79A. I received a copy of this document. I did not receive 78A in the mail. I received a mimeographed copy of this
3075 letter. I destroyed the envelopes that these docu-
3076 ments came in. (The Court admits Exhibits 18, 78A, 79, and 79A, partially sustaining the objection and for the limited purpose to show that this witness did receive these items and as circumstantial evidence that others may have received them).

Direct Examination.

3086 I recognize PX 90A which I first saw shortly after September 20th, 1963, and which I did not receive personally but saw in the office of Father Brkich in Mil-

waukee who received and opened it in my presence.

3087-3153 Discussions by counsel.

3155 PX 127 is a copy of the 1927 constitution of the diocese and it is in the Serbian language. I received
3156 this from Father Velimar Kovacevich who is a parish priest in the church in South Chicago and who gave it to me about two or three months ago and after I returned it to him he gave it to me again
3158 two weeks ago. I have examined the second page of PX 30 in evidence where it states, "Constitution Serbian Orthodox Diocese of the United States of North America and Canada accepted at the Diocesan Church National Assembly in 1927." The reference
3160 made in exhibit 30 to the church national assembly in 1927 is where the constitution of the American Canadian Diocese plaintiff's exhibit 127 was accepted. It is my opinion that the Bishop for every diocese in the Serbian Orthodox Church including the American Canadian Diocese is elected and appointed by the Holy Assembly of Bishops of the
3161 Serbian Orthodox Church. It is my opinion that the Holy Assembly is the only body with the power to elect and appoint Bishops and I base this on article 9 of the constitution of the Serbian Eastern Orthodox Diocese of the United States of America and
3162 Canada which states, "Article 9: Bishop of the Serbian Eastern Orthodox Diocese in the United States of America and Canada is appointed by the Holy Assembly of Bishops of the Serbian Patriarchate."

3164 On page 58 of PX 127 is the recitation of the ap-
3165 proval of the constitution by the Holy Assembly of
3166 Bishops. The document contains the seal of the Holy
3167 Bishops' Synod. I recognize PX 128A and the signature appearing thereon as that of Emilijan, Bishop

of Timok and the seal that appears to the left of that name is that of the Holy Bishop's Synod of the Ser-
3172 bian Orthodox Church. The signature which appears on PX 172 at the foot of the second page is mine. I executed that signature and this is a deed from the Serbian Eastern Orthodox Diocesan Council for the United States and Canada, a Corporation duly organized and existing by virtue of the Laws of the State of Illinois. Beneath my signature is the word secretary. I was in fact secretary of the grantor
3173 Corporation. By virtue of being secretary of the diocese I was secretary of the corporation but I was never elected as secretary of the corporation. I had a conversation with Bishop Dionisije on or about the date that I signed this document in St. Sava Monastery in Libertyville. Bishop Dionisije and I were present and probably the legal advisor at that
3174 time, Dushan Silaski. The legal advisor stated at that time that he had been asked to prepare this document by Bishop Dionisije and that I should sign as secretary of the diocese.

3175-3195 Discussions by Counsel.

3196 The Bishops of the Serbian Orthodox Church are consecrated by the Patriarch and two bishops. Under the constitution and canons of the Serbian Orthodox Church no one other than the Patriarch of the Serbian Orthodox Church, with the assistance of Bishops is authorized to consecrate a Bishop. A Bishop
3197 of the church is assigned to a diocese by the Holy Assembly and no one else is authorized or able to assign a Bishop. Only the Holy Assembly of Bishops under the constitution and canons of the Serbian Orthodox Church is authorized or empowered to create a diocese in the Serbian Orthodox Church. This

power is exclusive to the Holy Assembly. In my
3199 opinion the Holy Assembly of Bishops of the Serbian Orthodox Church according to the constitution of that church is the only body that can change the name of a diocese, the boundary lines of a diocese, or add more territory to a diocese and this includes
3200 reorganization. This also includes reducing the geographical boundaries of a diocese and creating other dioceses in connection therewith. It is my opinion
3202 that, according to the constitution of the Serbian Orthodox Church and the constitution of the American Diocese, the people or congregations have no voice in who is elected Bishop by the Holy Assembly of the Serbian Orthodox Church. The Patriarch of
3204 the Holy Synod may authorize another Bishop or Bishops to act in his name in the consecration of a Bishop and I myself was consecrated under these circumstances as were Bishops Gregory and Lastavica. During his lifetime Stefan Lastavica did not attend meetings of the Holy Assembly of Bishops, but Bish-
3205 op Gregory has attended these meetings. Bishop Lastavica died in 1966. I had a conversation following the meeting of June 6th, 1963, with Mr. Nicholas Stepanovich on October 2nd, 1963, in the Bismarck Hotel in Chicago. I was called by Father Velimir
3206 Kovacevich who was parish priest in South Chicago and after this conversation a meeting was held at which Father Kovacevich, Mr. Stepanovich, Dr. Uros
3207 Seferovich and myself met at the Athletic Club on
3210 Michigan Avenue. We held the meetings in the large
3211 dining room and had lunch. There were just the four of us present. At this meeting we discussed the situation of the Serbian Church in the United States of America and Canada. Mr. Stepanovich said that he

did not agree with the organization of the American Canadian Diocese and I told him that like a family the church is living and its development cannot stop.
3212 Dr. Seferovich left immediately after lunch and after the three of us discussed the problem further we
3213 separated. This conversation took place about the 20th of September, 1963. I have a further conversation with Bishop Dionisije in Pittsburgh at which Bishop Dionisije, myself and the priest of St. George Serbian Church in Pittsburgh, Father Milan Savich
3214 were present. This meeting had been prearranged by a telephone call from Bishop Dionisije. This
3215 meeting occurred several days after June the 6th, 1963. Bishop Dionisije told me he wanted to make peace with me after the meeting on June 6th of the Plenum and I told him I would be glad to and would do my best. I asked him what did he want from me and he told me not to accept the administration of the diocese. I repeated what I said at the meeting that asked and appointed by the Holy Bishop's Synod that I was going to accept the assignment. I told
3216 him that assignment was to be administrator of the Canadian American Diocese. I then said to him, "Bishop Dionisije, you are informed that certain charges exist against you. Why don't you accept this, stand up and defend yourself. I shall be more than glad to help you whenever I can." He then asked if I wanted to accept the administration and I told him yes and then he got up and left the house. Following my meeting with Mr. Stepanovich in the Athletic Club in September of '63, I had occasion
3217 to meet with him again. This took place on October 2nd, 1963, in the Bismarck Hotel Restaurant. Again this meeting was arranged by Father Velimir Kova-

3219 cevich. Our appointment was for 7 o'clock at the Bismarck Hotel and I arrived early so as not to miss him. He arrived with his wife shortly after 7 and she departed immediately. We then went into dinner and he said let's talk about the church. I asked him
3220 as a friend of 23 years why he was on the other side in this matter and he replied that the Holy Assembly of Bishops had divided the American Canadian Diocese into thirds and by doing that they abolished the constitution of the American Canadian Diocese. I told him that laws can be abolished by other laws and that the reorganization of the American Canadi-
3221 an Diocese by the Holy Assembly of Bishops instructed the church people's assembly, that is the Sabor, to decide where the boundary lines between the newly created dioceses be situated. He then said to me that they want to rule property here in America in the same manner as they do in Yugoslavia. I replied to him that the Serbian Orthodox Church in Yugoslavia to my knowledge never interfered in the administration of property in this diocese and that after the war under very difficult conditions when many churches were destroyed, priests and bishops killed, they had never asked for donations or help from us to rebuild the churches, seminaries or
3222 schools. I told him I guaranteed that there would never be interference in the management of our property. He then said to me, "Bishop Firmilian, I would come on your side if the Holy Bishop's Synod issues a decision first that the constitution of the American Canadian Diocese is still in force except for this reorganization in the dioceses and if the Holy Synod of Bishops issues a statement or decision that they are not going to interfere in the

management of our property here in America and when I receive that decision from the Holy Synod of Bishops I will come on your side." I told him that I would inform the Patriarch of his requests, but that in order to be sure I transmitted every word I asked him to write this statement on a piece
3223 of paper. As I did not have any paper I gave him a menu from the restaurant and on the blank side in his own hand writing he put down word by word his request. I then asked him about the litigation in Waukegan and he said, "Don't pay any attention to that." I took the menu and copied the statement he had made in a letter addressed to the Patriarch as President of the Holy Bishop's Synod and I told them about the meeting and request made by Mr. Nicholas Stepanovich.

VERBATIM TESTIMONY

[3218] BY MR. JENNER:

Q. Prior to your telephoning Mr. Stepanovich as you have now testified, did you have a conversation with Father Kovacevich?

A. Yes, I have.

Q. Now, following that conversation, did Father Kovacevich—with Father Kovacevich, did you then call Mr. Stepanovich?

A. Yes, I did.

Q. Did you reach him on the phone?

A. Yes, I did.

Q. What did you say to him and what did he say to you?

A. I told him about call from Father Velimir Kovacevich and then—

Q. What did you say with respect to that telephone call?

A. I said, "I received—" "Father Velimir Kovacevich informed me that you want to see me again
[3219] and I'm willing to see you at any time anywhere you want."

Q. What was his response, if any, to that?

A. And he told me to wait for him at seven o'clock on October 2 in Bismarck Hotel.

Q. The restaurant in the Bismarck Hotel?

A. Yes, restaurant in the Bismarck Hotel. And I agreed.

Q. All right. Now, did you go to the Bismarck Hotel on October 2?

A. Yes, I did.

Q. At or about seven o'clock?

A. I was there before seven o'clock and I was afraid the hotel is too big to—maybe I am not going to see him. I was waiting outside on street, on street in front of Bismarck Hotel.

Q. And did he come along?

A. Yes, he came with Mrs. Stepanovich about seven o'clock, maybe 7:05. He was prompt. And Mrs. Stepanovich went somewhere. We greeted each other and she went away and then Mr. Nicholas Stepanovich and myself went into the restaurant and —

Q. You sat down and had dinner?

A. Yes. We had dinner. Then I asked Mr. Nicholas
[3220] Stepanovich about the purpose of his—this meeting. I said, "You called, I accepted your call, here I am. Let us talk about the—" He said, "Let's talk about the church." I said, "Yes, let's talk."

Q. All right.

A. And then I asked him, "Mr. Nicholas Stepanovich, why—tell me as a friend—" we were friends for 23 years—"tell me why you are on the other side. What is the reason?" And then—

Q. Did he respond to that?

A. Yes, he did.

Q. What did he say?

A. He said to me, "You know," he said, "that the Holy Assembly of Bishops divided the American-Canadian Diocese into three dioceses and by doing that they abolished the Constitution of the American-Canadian Diocese."

I replied to that that he—I said, "Mr. Nicholas Stepanovich, I am surprised. You are a lawyer and you know that law can be abolished by another law," and I told him about the decision of the Holy Assembly of Bishops, that 1725, and about the reorganization of the American-Canadian Diocese, that the
[3221] Holy Assembly of Bishops by that decision instructed the church Peoples' Assembly to—that the Constitution remain the same, that the boundary line between the newly created diocese will be decided by the Peoples' Assembly.

Q. That's the sabor?

A. Sabor. Yes. Of the Serbian—of the American-Canadian Diocese. And that Constitution will be worked accordingly to this decision and all this proposals by the sabor should be sent to Belgrade for approval.

And when I finished that, Mr. Nicholas Stepanovich said to me, "But they want to rule our property here in America in the same manner as they do in Yugoslavia." And to that remark I replied: "Mr. Nicholas Stepanovich, the Serbian Orthodox Church

in Yugoslavia, to my knowledge, never interfered in the administration of the property of this—of the diocese in the United States of America and Canada. They were, after the war, in very difficult condition. Many churches were destroyed, many bishops killed, priests killed, but they never asked even donation from us to help them to rebuild the church and sem-
[3222] inaries and schools," and I was trying to convince him—

Q. Say what was said.

A. I said, "I can guarantee you, Mr. Nicholas Stepanovich, there was—they would never interfere in the management of our property here in America and Canada."

Then Mr. Nicholas Stepanovich said to me, "Bishop Firmilian, I would come on your side—" I said, "Don't come on my side, come on the side of the church,"—"if the Holy Bishops' Synod issues a decision first that the Constitution of the American-Canadian Diocese is still in force except this reorganization in the diocese, and if the Holy Synod of Bishops issues a statement or decision that they are not going to interfere in the management of our property here in America, and when I receive that decision from the Holy Synod of Bishops, I will come on your side."

I agreed to—

Q. No, what did you do? What did you say?

A. I said, "Mr. Nicholas Stepanovich, I will inform his Holiness, the Patriarch, and the Holy Synod about your requests, but in order to be sure that I transmit every word you say, will you be kind
[3223] enough to write this on the paper" and I didn't have any paper on the table, I took menu—

Q. Menu?

A. Menu from the restaurant and on the empty side I turned and he in his own handwriting put word by word his request.

Then I asked him, "Nick, how about this litigation in Waukegan, you know, that we are in court?" He said, "Don't pay any attention to that."

Then I went home, copied—

Q. Did you take the menu with you?

A. Yes.

Q. On which Mr. Stepanovich had written his request in his own hand?

A. Yes.

Q. All right.

A. I took that, I made a copy of his written statement and I wrote on October 3 a letter to—addressed to the Patriarch as the President of the Holy Bishops Synod and I told them about the meeting and the request made by Mr. Nicholas Stepanovich in the hotel, and—

ABSTRACTED TESTIMONY RESUMED

In October I received a reply which is PX 128. I
3224 believe the original menu was used by Father Dusan
3225 Saukletovich in the court case in Indiana Harbor. I have not seen the menu from that date to this. Of my own knowledge I do not know if the menu was
3226 used in that court case. Of my own knowledge I do not know where the menu is.

3230 PX 141 is the carbon copy of a letter dated October 3rd, 1963, addressed to his Holiness the Arch Bishop of Ipeck, Metropolitan Belgrade-Karlovacu, Patriarch German, Belgrade, Yugoslavia. The signature appearing on the bottom of this letter is mine and this is a carbon copy of an original letter which I dispatched, as I testified, to the Patriarch. PX 128
3237 refreshes my recollection as to all the words and

numbers on Mr. Stepanovich's hand written notes on the reverse of the menu during the course of the dinner at the Bismarck Hotel on October 2nd. Para-
3238 graph numbers one and two reflect his memorandum on the menu. After my receipt of the Holy Synod's letter, PX 128, I made a photostatic copy and mailed one to Mr. Nicholas Stepanovich after which I called him and informed him of the contents of the letter. This was about a week after October 18th. I read
3239 him the letter which I received from the Holy Bishop's Synod and I told him, "I fulfilled my part; I am expecting that you fulfill yours." He was very cold and he said, "I changed my mind." That was the end of our conversation. I had called the Sabor
3241 of the Canadian American Diocese subsequent to 1963, but not as administrator of the diocese.

3242 The boundaries of the Eastern Midwest and Western dioceses have been determined at a special church national assembly held in Detroit in 1964. The church national assembly is the body of the whole church in the United States of America and Canada and this body was brought into being by the constitution of the American Canadian Diocese. The
3243 assembly was composed of the three bishops and two delegates from each congregation of which one was the president of the congregation and the other was an elected delegate and all the clergy of the Serbian Orthodox Church of the United States of America and Canada who remained loyal to the Mother Church. I made no effort to call a Sabor of the Canadian American Diocese. In PX 121 I have
3244 stated that I am the only authority who can properly summon or preside over a Sabor and in that letter I requested that the call of the August 1963 be rescinded. However the Sabor call was not rescinded.

(Offer of proof.) The pendency of this litigation played a part in my decision not to call a Sabor. In July of 1963 I received a letter from the then secretary of the diocese, Archimandrite Dmitrije Balach in which he informed me that the diocesan council and the ecclesiastical court decided to prevent me from entering the property of St. Sava Monastery. Immediately after that there was a letter sent to all church congregations from Libertyville that the diocesan council decided to authorize Mr. Nicholas Stepanovich to find a law firm who would stop any action which I might take in receiving the property in Libertyville. I then wrote a letter to Dr. Seferovich calling his attention to the fact that he could not preside over the Sabor nor summon one and that only authorized persons could do that. Then on July 31st, I was served with a summons in Milwaukee by the Sheriff to come to the Court in Waukegan in this action. This was July 31st the day before I was consecrated Bishop. (End of the offer of proof.)

I received a letter from Reverend Balach sometime in July following the July 6th, 1963, meeting. Following the receipt of the letter from Reverend Balach a letter was sent by Bishop Dionisije and the Monastery in Libertyville to all church congregations. I recognize the document marked PX 151 which was received by Father Milan Brkich through the mail after July 24, 1963, in Milwaukee. I was present when he received it in an envelope bearing the letterhead the American Canadian Diocese and addressed the St. Sava Serbian Monastery postmarked Libertyville.

Discussions by counsel.

PX 152 does not bear a signature but just typewritten names. I first received this letter which was

sent to all the clergymen and all of the church congregations when I was present in Pittsburgh. Following my receipt of PX 152, I wrote a letter to Dr. Seferovich which is PX 121. However, I received no response. I was informed by the secretary of the diocese that the executive committee of the Serbian Orthodox Diocese of America and Canada had held a meeting subsequent to my dispatch of the letter, PX 121.

A Sabor was called in the year 1964 by the three bishops, Stefan Lastavica, Bishop Gregory and myself. The Sabor was held after the entry of the two orders of temporary injunction and clarification. At this Sabor the first we read all of the decisions of the Holy Assembly of Bishops and Holy Synod in connection with the church in America and Canada. Then we fixed temporary border lines between the dioceses and began to function as a church. Decisions were made and committees were elected and all of this information was sent to the Holy Assembly of Bishops and they approved. The Sabor was attended by more than 50 clergymen who accepted the decisions of the highest church authority and delegates from the church congregation who were not under the control of former Bishop Dionisije. The boundaries we fixed between the dioceses at that time were temporary because I was not able to summon regular Sabors where changes in the constitution could be effected and we informed the Holy Assembly of that. We were not able to call a regular Sabor because of this litigation and the injunction that had been entered. PX 153A is a letter received from the Holy Synod of Bishops of the Serbian Orthodox Church and is signed by the Serbian Patri-

arch German and contains the seal of the Holy Bish-
3280 op's Synod. The last paragraph of this document states that it is the decision of the see that the boundaries between the dioceses are temporary and only effective until a new constitution is adopted. Following the judgment and mandate of the Appellate Court of Illinois in this case, I undertook to perform my acts and duties in my capacity as administrator of the Canadian American Diocese. I called the clergy who did not obey the orders of the highest church authority to come back to the church and otherwise I would take some measures against them and I established an ecclesiastical court and proceeded against those clergymen who did not obey and were members of the former American Canadian
3281 Diocese. During the period from the commencement of this litigation I did not undertake to act as administrator of the Canadian American Diocese because of this case and I was under injunction. I did not want to do anything to disturb the court's order.

3284 PX 141A is a document written by Mr. Nicholas Stepanovich in his handwriting dated October 2nd, 1963, and the typed portion at the bottom is not the Serbian translation of the longhand on the top ex-
3288 cept for the first line. PX 142 are the minutes of the Sabor held in 1938 translated by the Reverend Lunich.

3289-3304 Admission of evidence, discussion by counsel.

3305 During the time I was secretary of the American Canadian Diocese I became acquainted with the newspaper *American Srbobran* which still exists today and is the official paper of the Serbian National Federal located in Pittsburgh, Pennsylvania, and it is published in Serbian and in English on a

3306 daily basis. Although not all were published many of the communications, reports or minutes of actions of committees or groups of the diocese were published in this newspaper. Many decisions of the diocesan council and diocesan assembly of the Sabor were published also. Usually a copy of the minutes or of a decision was sent to the Editor to be published and this custom continued after I ceased being secretary of the diocese. I do not know if this was the custom before I became secretary of the diocese.

3316 I have examined PX 150A and am familiar with the signature appearing in the left hand column which is the first signature. It is that of Bishop Irinej. The second signature is that of Tihom Popa-
3317 lovich who is from New York and when I was a priest in New York was president of the church congregation of St. Sava Cathedral in New York. I do not recognize the next two signatures but I recognize the Very Reverend Borivij Pavlovich which appears on the last line in the left hand column. I do not recognize the signature purporting to be that of George
3319 Kukich. PX 154 A is a copy of the by laws of the priests' pensions fund of the Serbian Orthodox American Canadian Diocese.

3320 *(Cross Examination of Bishop Firmilian)*

3322 I left Belgrade, Yugoslavia, in April 1940. (Offer of proof). When I left Belgrade Metropolitan Joseph
3324 told me that he had heard that there were charges against me. (The Court states that he will not let defense counsel as a part of their offer go into the
3325 conversation this witness had with Metropolitan Joseph concerning the charges). In 1938 I was Clerk of the Metropolitanate of Belgrade and then I was transferred to the Metropolitanate of Scorpia of

which Metropolitan Joseph is the metropolitan. I re-
3326 ceived a canonical letter from the Patriarch of the Serbian Orthodox Church informing me that was not under ecclesiastical authority and that I was accepted in the diocese of America and Canada. (The offer of proof is closed and refused). I ceased being
3327 secretary of the American-Canadian Diocese in 1957. In 1956 I put monies from the diocesan or monastery treasury into my own personal checking account. I
3328 don't know how much money was placed there. I wasn't exactly asked to submit my resignation as secretary but the situation was such that I didn't want to stay any longer as secretary. In 1957 I left and I informed Dionisije and I was under doctor's care in Chicago living at the Y for about three months. I never held the position as secretary of the diocese after 1957.

3329 The order appointing me administrator of the Midwest Diocese is dated May 17. At the plenum
3330 meeting on June 6, 1963, the motion was made to issue a call for the church national assembly to be held in August of 1963. I voted to advance the Sabor from September or October to August. I am administrator of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an
3335 Illinois Religious corporation. I don't know if any members of the Holy Bishops' Assembly on or after May 11, 1963 were members of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation. At
3336 my discovery deposition on February 7, 1964, page 35, I stated that the three newly appointed bishops, Bishop Stefan, myself and Gregory were members of the Serbian Eastern Orthodox Diocese for the United States and Canada, a religious corporation.

3338 (Counsel advise the Court that "Sabor" and
3339 "Church National Assembly" are the same thing).
3341 (Offer of proof). The church national assembly (Sabor) is a diocesan assembly, not a corporation assembly. At my discovery deposition of February 7, 1964, I stated that I was responsible to the sabor or national assembly in administrative matters per-
3343 taining to properties, the corporation itself. (The offer of proof is closed and refused). I don't know how many members of the priests of the Midwest Diocese are members of the Lojitch group.

3344 I don't know whether a recording was made of the June 6, 1963, plenum meeting. At my discovery
3345 deposition of February 7, 1964, I stated that I knew
3347 that a tape recording was made of that meeting. I was appointed administrator of the Midwest diocese after the American-Canadian Diocese was reorganized on May 10, 1963. I demanded that Bishop Dionisije turn over to the American-Canadian Diocese and I guaranteed that I would return the whole diocese to him if he were acquitted by the delegation
3348 which was invited on that sabor. I do not recall saying, "Your Grace, I have been directed on behalf of our highest church authority that I accept the administration of this diocese, the Middlewest. . ."

3357 (Plaintiffs' counsel stipulates that the portion of PX 115 purporting to be statements by Metropolitan Damaskin is a true rendition of what was stated at
3367 the time). (Plaintiffs' counsel stipulate that a corporation could not be divided into three corporations by the Assembly of Bishops).

3369 The diocesan boards, church national assembly, diocesan council and diocesan executive board have nothing to do with the Holy Synod. The bishop transmits decisions of these boards to the Holy

Synod. These boards are the religious body. The churches in America and Canada don't belong to the
3370 corporation. Prior to May 1963 there was one religious body in the United States known as the Serbian Eastern Orthodox Diocese for the United States of America and Canada. There was one body in the United States after May 10. After May 10
3371 there were three dioceses. There is one body today and there are three dioceses today. This religious body I'm talking about had a written constitution which provided that the church national assembly in America and Canada initiated amendments to the constitution. These provisions of the constitution were binding upon that religious body. The constitution provides for church national assembly and a diocesan council which is divided into two parts and when the two parts meet together there's a plenum
3372 according to the constitution. The constitution also provides for an ecclesiastical court of the diocese. (Counsel for plaintiff states that PX 30 is the constitution of the religious body).

"The Witness: Yes, I know. The American-Canadian Diocese, according to the constitution, are independent in financial matters, not in church matters. The administration of school, property, money it collects, that's the jurisdiction of the church national assembly, to solve all of these financial matters."

3373 The three dioceses are part of the one religious body that now exists. The name of the presently existing religious body is Serbian Eastern Orthodox Diocese for the United States of America and Canada. There is a body known as the Serbian Orthodox Church in the United States that is all three

3374 dioceses. The Serbian Eastern Orthodox Diocese for the United States of America and Canada is the Serbian Orthodox Church in the United States. These are not two separate bodies. We have recently adopted the name "Serbian Orthodox Church in United States" on our stationery and used it in our literature but this is the diocese of America and Canada. There is no fourth diocese other than the
3375 Midwest, Eastern and Western. I am the administrator of the American-Canadian Diocese as the Synod ordered and, if that administration were given me, the Church National Assembly would decide the name and adopt changes in the constitution.

3378 DR. JOHN MEYENDORFF testified as follows:

Direct Examination.

3379 My name is John Meyendorff and I reside at 372 Scarsdale Road, Tuckahoe, New York. I am a professor of Patristics and Church History at St. Vladimir's Orthodox Theological Seminary located at Tuckahoe, and I am also on a part-time basis a Professor at Fordham University. I am a Professor of Byzantine History. I was born on February 17,
3380 1926, in Paris, France. I had my secular, secondary education in France where I was born after my parents came to France as political refugees from the Russian Revolution. I never lived in Russia, but my parents did. I was born in France and educated there and entered the University of Paris, Sorbonne. Thereafter I went to the Orthodox Theological Insti-
3381 tute of Paris. I received a university degree of LSL at the University of Paris and then pursued my doctorate which I received in 1958. While pursuing my doctoral studies at the University of Paris, I also

completed my theological studies at the Orthodox Theological Institute which is an independent institution in Paris. I have a degree in a Bachelor of Divinity.

3383 Byzantine History is the history of the Byzantine Empire which was a continuation of the Roman Empire through the Middle Ages until it fell under the Turks in 1453. Throughout the entire Medieval Period the Church of Constantinople which was the capitol of the Byzantine Empire was, in fact, the center of Orthodox Church life. Its primate or bishop was called the Ecumenical Patriarch. He is still called that although the Byzantine period does not exist anymore.

3384 My main interest in the field of Byzantine studies was connected with the history of the Orthodox
3385 Church and its institutions. I came to this country in 1959 to teach and was invited to occupy the position at St. Vladimir's Seminary. St. Vladimir's is a graduate school of theology recognized as such by the American Association of Theological Schools and all the proper agencies. It was created, I believe, in 1939 on the eve of the Second World War.

3386 There is a group known as the Faith and Order
3387 Commission of the World Council of Churches. The World Council of Churches was an ecumenical movement started at the beginning of this century by the protestant religions to try and promote christian unity. There were two branches of this movement, one called Faith and Order which emphasized primarily doctrinal, theological, administrative differences between the churches in order to solve them and discuss theology first. There was another branch which was called Life and Work which mainly was concerned with practical problems which would say

let's do things first and speak of what we believe after. In 1947 these two movements merged into the
3388 World Council of Churches. The Faith and Order group maintained some autonomy inside the World Council, and is a commission composed of thelogians of all churches and serves as a main theological body of the Council. The World Council of Churches today is a body in which most of your protestant denominations take part and practically all of the orthodox autocephalous churches are members. Therefore it represents a major part of the Christian world with the major exception of the Roman Catholic Church. I am a member of the Faith and Order Commission and have been appointed acting Chairman of the Commission last Summer.

I am familiar with the Dumbarton Oaks Center
3389 for Byzantine Studies at Harvard University. I had been a lecturer on the faculty there prior to my appointment to Fordham. I am still a member of the advisory board of scholars in this institution. I am an adjunct professor at Columbia University where I occasionally teach courses in Eastern Christianity.

3390 I wrote two dissertations for my Doctorate at the University of Paris, both of which were published.

3391 I have written a number of books. I was ordained
3396 in Paris prior to coming to America in 1959 as a Priest of the Russian Orthodox Church. I have
3397 made a substantial study of the canon law. The canons in the Orthodox Church are decrees or statements made by ecumenical councils and local councils which are recognized as having universal significance with respect to the Orthodox Church.

3398 The Orthodox Church recognizes the seven Ecumenical Councils of the first nine centuries of the Church. It also recognizes the authority of several

local councils which met in the same early period or even later as having authority, and their decrees are part of what we call canon law. I believe that it is important also to understand that the Orthodox Church does not have a code of canon law comparable to the Roman Catholic Church. In other words, the canons of the Orthodox Church have even been so far codified to the point of having one single book where you would have access to all problems. The
3399 Anglo-Saxon Common Law would be a closer model to what the Orthodox Canon Law is than, let's say, the code of Napoleon. Therefore, these canons from these various sources are included and accepted by all Orthodox Churches and the entire Orthodox
3400 Church today. In my studies and research I have devoted myself to the study of those canons and their histories.

3401 The universal church included both Roman Catholic Church in the West with headquarters in Rome, and the Orthodox Church in the East. The Schism occurred in the eleventh century and in the beginning there was a Patriarchate in Rome and in Constantinople. As a result of missionary activity in Northern and Eastern Europe, new churches were founded, first in Bulgaria, then Serbia, and then in Russia, which today are three independent Patriarchates. Each of these churches had the liturgy translated into its own tongue. Therefore, the Church became from the very start a Church of the people because of this translation. It was beginning to be rooted in national cultures and these new Churches claimed ecclesiastical independence from the Church of Constantinople which had created them. They
3402 received that independence from the Patriarchate of Constantinople. So the Serbian Church was established as an autocephalous independent church in the time of St. Sava, about the thirteenth century.

3403 All members of the Orthodox Churches believe in the universal church which includes all the churches of Jesus Christ. When the Serbian Orthodox Church became independent it means that it received the right to act as an ecclesiastical unit. It was not a new denomination which was created, but it was an administrative unit which enjoyed independence.

3404 It accepts the belief of the Orthodox Churches, that is the unity in faith and the same doctrinal statements and councils which are recognized as authority. Therefore they are not independent in doctrine and in canon law because they also accept the canons as spelled out by the Ecumenical Council which all of them recognize. What unites them is precisely this common faith and common allegiance to the same traditions. Now among these Orthodox Autocephalous Churches there is a hierarchical authority.

VERBATIM TESTIMONY

[3400] Q. And in your studies and research, you have devoted yourself to the study of those canons and the history of those canons, have you not?

A. Yes, I did.

Q. Now, will you please be good enough to tell us what the Orthodox Church is? And give us only just a brief amount of history so we can take it in perspective.

A. The Orthodox Church, as you know historically, is the Eastern half of the Christian world. There was a schism between Rome and the East in the eleventh century. Now, this Eastern half historically is called the Orthodox Church.

Now, today, as I mentioned before, the Byzantine Empire played a very important role in shaping the Orthodox Church in the past. Now, since the fall of the Byzantine Empire, many things have changed in the life of mankind, and the Orthodox Church toda, still is, therefore, a very traditional church of the community. It keeps many features which go back to the time of the Byzantine Empire, but, on the other hand, it has adapted its administrative structures to the changes which took place in history.

Originally when the schism with Rome took place
[3401] in the eleventh century, you had five Patriarchates in the universal church.

Q. Excuse me. Wha[illegible]s the universal church?

A. Well, that includes the West and the East. You see, the universal church by the eleventh century, that includes everyone.

Now, the Roman Bishops, the Bishop of Rome was the first of these Patriarchates. Now, four others were in the East. Of the four others, the four Patriarchates, No. 1, being that of Constantinople, the Bishop of Constantinople.

Now, with the emergence of new churches as a result of missionary activity in northern and eastern Europe and new churches being founded, first in Bulgaria, then in Serbia, then in Russia—these are the three main ones; there are other ones.

Now, each of these churches had the liturgy translated into their own tongues. Therefore, the church became, therefore, from the very start, a church of the people because of this translation. It was beginning to be rooted in national cultures, and these new churches claimed ecclesiastical independence from the Church of Constantinople which created them, and received that independence.

[3402] Q. From whom?

A. From the Patriarch, of course, of Constantinople. So the Serbian Church, for example—I will not mention the others—but the Serbian Church was established as an autocephalous, independent church in the time of St. Sava at the—in the 13th century, beginning of the 13th century, and it was established by the Patriarch of Constantinople who actually then was in exile in Nicaea. Nevertheless, this was the—

Mr. Holmquist: I didn't hear the last part of your answer.

The Witness: The Serbian Church was established as an independent, autocephalous church in the time of St. Sava and this establishment took place through the Patriarch of Constantinople who was then in exile in the city of Nicaea.

Mr. Jenner: Q. You mentioned that churches began to come into existence. When you used that expression, are these churches that just decided they were going to be churches, or were they part of a whole? Would you explain that for us?

A. Certainly. Of course, the word "church" can be used with different meanings. On the one hand, when we Orthodox Christians, whatever our national
[3403] background, recite the Creed and say we believe in one Holy, Catholic and Apostolic Church, we mean the universal church. Therefore, the word "church" can be—can designate the Church of Jesus Christ, I mean universally.

The word "church" also can designate local units, such as groups of dioceses, or even one single diocese can be called a church as in the New Testament writings, we could speak of the Church at Corinth, the Church at Rome. But also, the word "church"

can apply in this sense. Now, when I spoke of these historical facts, when I spoke of the Serbian Church being established by the Patriarch of Constantinople, the word "church" designates a grouping of all Christians living in Serbia and of Serbian nationality which received the right to act as an ecclesiastical unit.

Q. Of what?

A. Of the universal church; however, it was not a new denomination which is created, but it was an administrative unit which enjoyed independence in administration.

Now, this independence was granted to it by its Mother church, which was the Patriarchate of Constantinople.

[3404] Now, today—if I may just pursue, the Orthodox Church is a fellowship of churches. Each of these churches is called an autocephalous church.

Q. Explain that, please.

A. An autocephalous church—the word "autocephalous," the adjective "autocephalous" means—it comes from the Greek and it means the head, autocephalous. It means the church which elects its own head; therefore, it is an independent church.

Q. Is it independent in theology and in spirit?

A. It is not independent in theology. It accepts what Orthodox churches confess, to the unity in faith, and they all accept the same doctrinal statements of councils and recognizing only ecumenical councils as authority to legislate on doctrine.

Therefore, they are not independent in doctrine or in cannon law because they also accept the canons as spelled by the ecumenical council, which all of them recognize.

Therefore, what unites them is precisely this common faith and common allegiance to the same traditions.

Now, among them, these Orthodox autocephalous churches, there is an hierarchical authority.

ABSTRACTED TESTIMONY RESUMED

3405 In other words, in each Church a head occupies a position, though truly honorary, because all authority and power are totally identical, but the Patriarch in Constantinople, out of tradition and in consideration of the fact that he resides still in the place which was the capitol of the empire, and therefore the Mother Church for slavic churches, is considered as having the primacy of honor among the Patriarchs of the Orthodox Church. He is not a Pope of Orthodoxy. He enjoys the primacy of honor without any power over the eternal affairs of the churches. It is not possible within the Orthodox faith for an Orthodox Church within this unity to become an Orthodox Church all by itself, or a group just creating themselves as an Orthodox Church without permission from any source or group. New autocephalous churches are created by two fundamental acts. One is the blessing action of the Church which
3406 so far has exercised jurisdiction over them, or over a given territory.

3407 The Russian Church might be an example. Originally, it was under the jurisdiction of the Patriarch of Constantinople and received autocephaly from Constantinople. However, for the sake of historical accuracy, I must say that in several instances the beginnings of autocephalous churches were not without some tension. In the case of the Russian Church,

the Church proclaimed itself to autocephalous because the Patriarch of Constantinople had signed a union with the Church of Rome at the Council of Florence. The Russians considered that he had betrayed the faith and since he had betrayed the faith he had lost his right over them. They sort of established their church as autocephalous; but always when orthodoxy was restored in Constantinople and when the union of Florence was broken, they always sought recognition and received it of them.

3409 The second criteria for the creation of an autocephalous church is the recognition of this new church by all other autocephalous churches. In the Orthodox Church we do not have nominations. We are one church and no one church has the possibility to act completely by ignoring the opinion of others . The Mother Church grants autocephaly by the other churches recognizing that autocephaly. I believe there are fourteen autocephalous churches in the Orthodox Church today.

3411 Each Orthodox Church is a group of Dioceses. Now there is a standard requirement for the minimum number of Dioceses which must exist in an autocephalous church, and that is four. So for example, the smallest of the Orthodox Autocephalous Churches is Cyprus which has four dioceses. Now the reason for this four is that the canons prescribe that a new Bishop must be elected by at least three other Bishops and therefore if one of the four dies the three others can elect a successor. So any group that you see of three dioceses, theoretically, or four dioceses can apply for autocephalous.

3412 Hypothetically, if an autocephalous church consisting of four dioceses and four Bishops were to have two Bishops die, before three could elect another, then I would assume that the Church would ask for the help and participation of sister churches to elect and consecrate a Bishop. It is possible for four Bishops of four dioceses to proclaim that they are a church, but anyone can claim anything and recognition is the key. I would say self-proclaiming in and of itself is not sufficient.

3413 The Orthodox Church believes that all of the Bishops of the Church are of equal dignity and that their primary responsibility is to keep the unity of the Church. Therefore, when it is considered appropriate by anyone to create an autocephalous church in a particular area, it is important to secure unity in the belief that an autocephalous church is required. If therefore the conditions become sort of obvious, the Bishops will support a new autocephalous church. The conditions are first, the acceptance of the Church

3414 which so far has exercised jurisdiction in this particular area or over these particular people; and second, that all of the other Bishops from all of the other churches enter with this new church in fellowship and communion. If these two conditions are not fulfilled the creation of this new autocephalous church recites a Schism. In order to avoid that Schism one has to secure the fellowship of the Bishops of the whole Church. The Bishops of the different churches are in contact with each other through personal and business correspondence and this secures unity. At the election of the head of each of the Patriarchs, he sends a letter announcing his election to all the others who grant him recognition in return. If they take it that his election was properly conduct-

3415 ed. We go by consensus in the Orthodox Church and the consensus of all the churches, the consensus

of the Episcopate is what matters most of all. The Bishop is the spiritual and administrative head of a diocese in the Orthodox Church.

3416 According to the canons of the Church election of a Bishop is conducted by the Bishops of the Autocephalous Church to which he belongs, although the proceduers here may vary from local church to local church. For example, there are some churches which admit nomination by the Assembly of the Diocese, but this is for nomination only, and then the canonical election is held by the Bishops. As far as I can tell by the statutes of the Serbian Patriarchate and the Serbian Diocese, there is no provision for nomination by lay assembly. The Bishop can organize the diocese the way he wishes unless he is bound by some general bylaws which are valid for all of the dioceses of a particular church.

3417 Autocephalous churches are often connected with countries, such as the Serbian, Russian, Greek or Constantinople. These autocephalous churches cannot have jurisdiction in territories which belong to other churches. If a Russian Priest travels to Greece, he cannot celebrate the sacraments or act as a Priest without permission of the local Bishop. The Russian Church could not establish a diocese in Greece, ex-

3418 cept if for the sake of temporary expediency the Church of Greece gave its permission.

3419 As far as America is concerned the Church of Russia established a diocese here in 1840 and until the early 1920's all of the orthodox in this country were subject to this diocese. After 1921 the various national churches were established, including the Serbian, but this was done by permission of the Russian Bishop.

Supreme Court, U. S.
FILED
DEC 11 1975
MICHAEL RODAK, JR., CLERK

APPENDIX

In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-292

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA,
a Religious Body, et al.,

Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,

Respondents.

Volume II—Pages 357 to 719
Testimony

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

Petition for Writ of Certiorari
Filed August 26, 1975
Certiorari Granted October 20, 1975

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In the
Supreme Court of the United States

October Term, 1975

No. 75-292

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA,
a Religious Body, et al.,

Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit.

[3415] Q. Now, who, if anybody, is the spiritual and even administrative titular head of a diocese in the Serbian Church—I mean in the orthodox church?

A. The bishop.

Q. The bishop. And that bishop for that diocese is elected by whom?

[3416] A. The—according to the canons, the election is made by the bishops of the province; that means of the autocephalous church to which he belongs, although the procedures here may vary from local church to local church. For example, there are some churches which admit nomination by—in the assembly, of the assembly of the diocesan nomination only; but then the canonical election is still made by bishops.

Q. Is there any such thing as nomination by lay assembly in the Serbian Orthodox Church?

A. Well, as far as I can see from the statutes of the Serbian Patriarchate and the Serbian Diocese, there is none.

Q. Are there in turn, at least administrative, if not spiritual, subdivisions of a diocese?

A. Well, that depends on the statutes of a particular diocese. You have deaneries, you could organize internally. The bishop can organize a diocese the way he wishes unless he's bound by some general by-laws which are valid for all the dioceses of a particular church.

Q. You have spoken frequently in the course of this trial of congregations. Are those spiritual and administrative subdivisions of a diocese ?

[3417] A. Well, you see, a congregation can be called an orthodox congregation only if it's—finds itself on the spiritual responsibility of a bishop.

Q. Now, in recounting for us, in naming the fourteen orthodox autocephalous churches presently existing in the world church; that is, in the orthdox church, those names all appear to have—to me at least—to have some country definity: Serbian; Russian; Greece; Constantinople—

A. Right.

Q. May these autocephalous churches have jurisdiction, spiritually and otherwise, of areas or in areas beyond the territories of the countries?

A. Well, they cannot have jurisdiction over—in territories which belong to other churches. They cannot.

Q. Would you please explain that and take your own church.

A. If a Russian priest travels to Greece, he cannot celebrate the sacraments or act as a priest without permission of the local bishop which is the orthodox bishop of the particular territory which he finds himself. And of course, let's say, unless the Russian Church establishes a diocese in Greece, this is then
[3418] absolutely out of the question. Where, except, you see, if for sake of temporary expediency the church of Greece gives its permission and sort of thinks that this is proper. You know, you had cases of that, all sorts of refugees going through and you had temporary administration of some kind and this is what happens, you see. This is a case, for example: The Serbian Church granted such a permission to a synod of Russian bishops who were residing in Yugoslavia until the Second World War. Well, they had their synod administering Russians in Serbia and elsewhere by a particular permission of the Serbian Church, but the Serbian Church was perfectly resigned to this permission and lost the canonical

character. Now, this applies to areas which have established orthodox dioceses. Now, there are areas on this planet where there are none, you see. Now, in this area, no man's land, where there's missionaries, the present practice of the orthodox church is that any church can send an established jurisdiction there. However, and I think this applies to America and perhaps—I don't know whether you wanted it on that in order to have a kind of history of what happened in America—however, once a diocese and church, a church establishes a kind of missionary activity or pastoral endeavors, a diocese in a par-
[3419] ticular church and this diocese is recognized as—by all and this is usually done canonically, becomes the local church.

Now, as far as the America is concerned, this—such a diocese has been established in 1840, in 1840 by the Church of Russia, you see, and therefore, up to precisely the 19—early 1920's, all the orthodox in this country were subject to this diocese. Now, after 1921, the national—various national churches were established including the Serbian, but this has been done by permission and of the Russian Bishop.

Incidentally, maybe I'm mistaken here. I'd like to say that the official name of the church was not Russian Church, it was the Orthodox Greek—The Greek Orthodox Church of America, I think it was called, although the head happened to be appointed from Russia, but it was not the Russian Church canonically while the head was Russian.

Q. Who or what body is the supreme body of an orthodox church; meaning an autocephalous, one of the fourteen, for example, autocephalous churches in orthodoxy?

A. Of course the Council of Bishops of that particular church.

ABSTRACTED TESTIMONY RESUMED

3420 Actually to be accurate, the Assembly consists of all the Bishops of the Church having dioceses. The Patriarch is the first among equals. He is the chairman ex officio of the Council of Bishops and represents the Church whenever this Church is to be represented; but again the specification of his powers may vary. In some churches he is not more than just a chairman, and in other churches he has some executive powers, but these are always granted by the legislation.

3421 I have had occasion to look through the Constitution of the Serbian Orthodox Church and the Constitution of the Canadian/American Diocese. The American-Canadian Diocese differs somewhat from the other dioceses of the Serbian Church. There is a special statute which was granted to it by the Serbian Church. It is still, as far as I can remember correctly the text, remained hierarchically and sacramentally a part of the Serbian Church. The Serbian Orthodox Church is a hierarchical church because
3422 they believe that the office of Bishop is divinely established and not something which comes from man. I have at your request studied and read the orders and decisions of the Holy Assembly of Bishops of the Serbian Orthodox Church in 1963, respective creation and organization of the Canadian/American Diocese and the creation of three other dioceses. I also have studied the suspension, deposition and defrockment of Bishop Dionisije.

3423 Within the canons applicable to the Serbian Orthodox Church, the Constitution of the Serbian Orthodox Church, the Constitution of the American/Canadian Diocese, I have an opinion as to whether or

not Bishop Dionisije was properly suspended, de-
3430 posed and defrocked. It is my opinion that he was. I am aware of the fact that the Holy Assembly of Bishops in acting with respect to Bishop Dionisije's defrockment, included among its members the Bishop assigned to prepare the Indictment and he sat and voted in the Assembly. In my opinion this makes no difference because I do not know of any Church rule which prevents him from acting in such a way, and in virtue of his episcopal dignity he had even the duty to vote on an issue of that importance, and in this particular case Church procedures are different from the sort of accepted legal procedures in
3431 our court.

3433 The Council of Bishops in the Orthodox Church and its autocephalous churches, has the authority to fix the boundaries of dioceses. These boundaries have been changed historically and everything which is done in the Church is in the authority of the consuliatory synodial voice of the Bishops.

3434 As a rule the Holy Assembly of Bishops or Council of the Autocephalous Orthodox Church appoints its Bishop. However, in several individual autocephalous churches there are procedures for the election of Bishops.

However, in every Orthodox Church the actual, canonical right of electing and appointing a Bishop belongs to the Bishops Assembly, although again the preliminary procedures of nomination, pre-election and so on, may in individual cases, be given to a Diocesan Assembly. In the case of the Serbian Church I do not think this was the case.

3435 I base this opinion on the reading of the statutes and the Constitution of the Serbian Orthodox Church. The canons of the Church form a code which do not

pretend to be absolutely consistent with each other. There is a great body of text which is made up largely of precedence indicating legal procedures that require interpretation, and obviously each Church has the duty to interpret these canons so that it may remain faithful to their spirit, to the doctrinal teachings of the Church, and to decency and every good principle in human relations which we can think of. It is of course the responsibility of each Bishop
3436 through the Assembly of Bishops to interpret these canons in such a way as their spirit may be preserved. In an autocephalous Orthodox Church, the final authority on the interpretation and explanation of the canons would be the Assembly of Bishops. This would include the interpretation of canons insofar as establishing procedures with respect to the appointment, the assignment, the suspension, the deposition, and the defrockment of Bishops. In the Orthodox Church, we do not believe in the infallibility of any particular Bishop, or even of any Council of Bishops, so by saying that this is the highest authority I do not want to affirm that a particular Assembly of Bishops is necessarily infallible. Their writings and their actions are always subject to the judgment of the whole Church and I would say the highest authority would be the Ecumenical Council but without an Ecumenical Council, of course, the highest moral authority which you can find is the consensus
3437 of the Orthodox Churches on a given case. The fact that the Assembly of Bishops acts to fulfill a right and responsibility, does not denote the legal infallibility. When I use the term legal, I am referring to the procedures necessary for the appointment of a Bishop or his deposition which would include indictments and ultimate defrockment.

3438 Within the Orthodox Church there is a right of appeal from a decision of a Council of Bishops of an Autocephalous Orthodox Church. Canon 9 and 17 of the 40th Ecumenical Council which is the Council of Chalcedon provided that if a Bishop or a Cleric is dissatisfied with the decisions of his immediate superior he may appeal against this decision for a judgment of the Exarch of the Diocese or of the Bishop of Constantinople. So he has two possibilities here. Now the Exarch of the Diocese in Byzantine legal terms, Orthodox legal terms, indicates the Patriarch of the area in which the case is being judged.

3439 Parallel to this route of appeal is the possibility of appealing to the Court of the Bishop of Constantinople who may, if he wishes, hear the case again. That status of the Bishop or Patriarch of Constantinople still exists today as a legal fact and is not purely honorary because this canon has never been rescinded. There were cases of appeal to the Patriarch of Constantinople in the recent history.

3444 With respect to the Serbian Orthodox Church, principally in the United States and Canada, the Exarch would be the Patriarch of Serbia, under whose jurisdiction this diocese was and is.

3454 PX 62 through 67 are series of documents and letters which tend to indicate an appeal by a Bishop
3455 who has been tried and suspended by his own Patriarch, in this case Patriarch German in Serbia, and the Bishop, Bishop Dionisije, in appealing against that judgment to the Patriarch in Moscow. Also there seem to be appeals to the Patriarch in Constantinople.

3467 (Offer of proof.) PX 62, 63, 64, 65, and 66 relate to and have the greatest bearing on the validity of the original decision of the Bishops. I am not an

expert in American legal procedure and secular legal procedures at all, but I am simply a theologian and I know the canons of the Orthodox Church and in view of what I think I made clear in my previous statements this morning, I consider that for the recognition of any validity to an act by any Orthodox Bishop or any group of Bishops, the consensus of other churches is essential; therefore, in my opin-
3468 ion the expression of the view of the opinions of the Orthodox Church, other Orthodox Churches who have the greatest importance for my personal conviction in my attitude toward the case as an Orthodox Theologian. The very fact that this defrockment has been recognized universally by all Orthodox Churches raises in my mind a very practically, decisive argument, and in my opinion supports the validity of the original action by the Serbian Assembly of Bishops.
(End of the offer of proof.)

3471 I have an opinion as to whether reorganizing a diocese has historically in the Orthodox Church resulted in the creation of two or more dioceses from the single diocese. This has happened both in ancient and modern history.

VERBATIM TESTIMONY

[3469] By Mr. Jenner:

Q. Does anybody—I don't mean any person—any body, cleric or otherwise, in orthodoxy have any jurisdiction and in particular in the Serbian Orthodox Church to reorganize a diocese other than the Holy Assembly of Bishops?

Mr. Holmquist: Would you read that question.

(The question was read by the reporter.)

[3470] Mr. Holmquist: Well, I think he's asking the witness two questions and the witness I think has already answered the question. In any event, he was previously asked this very same question.

Mr. Jenner: Your Honor pleases, I asked the witness here before who had that authority and he said the Holy Assembly of Bishops had it and I am now asking if any other body or person has that authority.

The Court: The objection is overruled.

Mr. Holmquist: Are you confining this to the Serbian Church?

Mr. Jenner: Yes.

The Witness: No. No.

By Mr. Jenner:

Q. There is no other?

A. No.

Q. Does that include any body or group of laymen that has no authority or jurisdiction?

A. It has—it may, but anyway, any initiative for the reorganizing of the diocese must receive the sanction of the Council of Bishops anyway. Therefore, it is the Council of Bishops which is the legal source of authority for the reorganizing of the diocese.

Q. Professor, do you have an opinion as to wheth-
[3471] er reorganizing of a diocese or dioceses may extend and has in the history of the orthodoxy extended to the creation of two or more dioceses from a single diocese?

A. Well—

Q. Do you have an opinion?

A. Yes. Of course—

Q. What is that opinion?

A. That this can happen and certainly happens in history.

Q. You say happened in history, you mean on occasions through the Byzantine history which you have been a student?

A. Or recent history.

Q. Ancient as well?

A. Ancient and modern.

ABSTRACTED TESTIMONY RESUMED

It is my opinion that the Holy Assembly of Bishops
3477 followed the canonical procedures as best it could and reached a conclusion which to me seems in conformity with practices and tradition and canonical rules of the Orthodox Church. It is my opinion that
3478 there exists today in the United States and Canada three dioceses from the canonical and ecclesiastical point of view. My opinion is based simply on the decision of the Assembly of Bishops of the Serbian Orthodox Church, which I have read and which I consider to be the appropriate authority to establish these three dioceses. These are PX 1 through 4, which
3480 I have examined. I have examined Article III of PX 30, this being the Constitution of the Serbian Orthodox Diocese in the United States of North America and Canada, adopted in 1939 and after having read this document I can state that it has not lead me to change my last expressed opinion. The autonomy de-
3481 scribed in this article pertains to the life of the diocese itself and it concerns the external administration of the diocese. It does not apply to the very existence of the diocese or the hierarchical jurisdiction of the Assembly of Bishops over it. I have based my opinion upon the reading of the Constitution of the Serbian Orthodox Church in general and it appears to

3482 me that Article III does not restrict the power of the Holy Assembly of Bishops to create new dioceses from an existing diocese.

3483 *Cross Examination.*

I was ordained in Paris in 1959 in an Exarchate of the Russian Orthodox Church. This is not a jurisdiction of the Russian Orthodox Church but is a diocese that was under the Patriarchate of Constantinople. The diocese did not remove itself from that jurisdiction but the Patriarch terminated it. It is currently void canonically and I don't know who
3484 makes claim to it. This exarch was established by bishops, clergymen and faithful who fled Russia during religious persecution around 1918. At that time
3485 they refuted their ties to the Patriarch of Moscow. They were immediately accepted by the ecumenical patriarchate and the Moscow Patriarchate's attitude officially was that they did so irregularly. Schism is a division of the church on the basis of disciplinary and other issues while heresy is the division on the issue of faith although very often between the two there is not as sharp a distinction as one would expect. It is fair to say that schism generally relates to administrative or procedural matters and heresy
3486 matters of faith and dogma. A schismatic, or one who is so accused, may nonetheless still hold orthodox beliefs. It is probably the case that those who came to Paris and labeled as irregular by the Holy Assembly in Moscow were considered by the Holy Assembly to be schismatics. It must be remembered, however, that the orthodox church in Russia and Serbia and this country and everywhere has been full of conflicts and tragedies and misunderstandings

of various kinds. I think it is important to see that the Patriarchate of Moscow never proceeded with
3487 any trials, defrockments or anything of that sort against the people in Paris or America. It is fair to state that throughout the orthodox world it has not been unusual to find factions in any of these churches accusing one another of schism and heresy. This is especially so in the last half a century. Traditionally the great provincial orthodox churches have grown up and followed the bundaries more or less of the kingdoms or countries in which they were situated. From time to time these countries have disappeared and sometimes the churches were ab-
3488 sorbed. From time to time also, many of these churches have been subject to the influence and efforts of the rulers of these countries and this is particularly true in the case of Moscow. In my book *The Orthodox Church,* I made a study of the orthodox church under Communism and made the point that very often it has been necessary for the church to accommodate to the gevernment to continue in
3489 existence. I am currently subject to the diocese in America. I am a member of the Russian Orthodox Greek Catholic Church of America. It is a successor to the Serbian Metropolia of America which was a
3490 continuation of the Russian Diocese founded in 1814. A Patriarch is the head of an autocephalous church while a Metropolitan is a title which can be used in a variety of ways in the orthodox church. It designates a provincial, a primate, but not necessarily autocephalous unless officially designated as such.
3491 The Metropolitinate of Montenegro is an example of an autocephalous church headed by a Metropolitan as contrasted with a Patriarch. Following the arrival of Metropolitan Planton in the United States

after 1923, relations with the Mother Church in Moscow were severed or broken. The Patriarch of Moscow sent a Bishop Benjamin to talk with Metropolitan Planton to more or less try and straighten this thing out. Benjamin was appointed as an Exarch which is a representative of the Moscow Patriarchate in America with jurisdictonal rights. (Offer of
3493 Proof.) Archbishop Benjamin requested Metropolitan Planton to sign a pledge that he would abstain from participating in political life in general and
3495 in particular in relation to the Soviet Union. The Metropolitan objected to and refused to sign the pledge. Thereafter, a Sabor or church national assembly of the Russian Orthodox Church in the United States met and declared itself autonomous from the Russian Church pending the establishment of normal
3506 church life in Russia. The resolution was that the Metropolitanate would enjoy temporary self govern-
ment until relations could be normalized with the
3507 Mother Church. I do not think that this case is parallel to the Serbian case as Moscow did not proceed with any trial, investigation or defrockment.
3508 The Russian Metropolitanate did not retain its hierarchial canonical connections with the Moscow Patriarchate. It also disturbed its administrative relations with Moscow. The members of the diocese and the faithful remained members of the Russian Orthodox Church. It is my opinion that the pledge was sufficient canonical reason for the Metropolitanate to take this stand which would be an unavoidable step
3509 for a loyal American citizen. The only thing which is sustained by canon law and orthodox doctrine is that no particular individual is infallible. Each individual's action or decisions or authority is to be judged by the consensus of the whole church. It is

my belief that Metropolitan Planton and the Sabor were justified in interrupting their ties with Moscow. It was a morally unavoidable decision. To my knowl-
3510 edge, the Russian Diocese in the United States did not lose recognition among other orthodox churches at this time. After the interruption the diocese did not place itself under another Patriarchate and enjoyed temporary self government. Metropolitan Planton was indeed suspended, but notification of his suspension was not addressed to him and the absolutely legal obligation of the Patriarchate to start a trial was never carried out which leads me to believe that the Moscow Patriarchate did not want to push this
3511 affair at all. It is difficult to say whether the initial suspension was done in a canonical manner as in 1930
3512 90% of the orthodox bishops in Russia were in exile or concentration camps. The council of the Russian Church in 1917 established a procedure for lay participation in the election of bishops and this was applied in its American branch. The level of participation by the laity was at the level of nomination only and this was in accordance with the statutes and the constitution of the Russian Orthodox Church. (End of the Offer of Proof.)

3517 MILAN GRUNCHICH testified as follows:

Direct Examination.

My name is Milan Grunchich and I am a priest at St. Stevans of Decani Serbian Orthodox Church in Chicago. I was born in Hungary on April 6, 1911, and was ordained as a priest on August 28, 1935, in the Serbian Orthodox Church. I attended the ele-
3518 mentary middle theological seminary and afterwards the University of Belgrade Theological Faculty. I

3522 arrived in the United States on February 14, 1949. I then went to Libertyville and subjected to myself to the jurisdiction of Bishop Dionisije of the Ameri-
3523 can-Canadian diocese. I served as a priest in various parishes until 1955 when I became a citizen. Then, I requested a leave of absence from Bishop Dionisije and went into private business. In 1963, when the division of the church occurred, the people that organized the church as St. Stevan of Decani in Chicago came into my home and asked me if I would
3524 take the parish. I am currently assigned there and perform the duties of the parish priest. I have ex-
3526 amined Plaintiff's Exhibit 68 article no. 15 of that
3527 exhibit and can state that the Serbian Orthodox Diocese of Budim is the same one in which I served as a clerk and as a parish priest in my early years in the Serbian Orthodox Church. At the time of its
3528 founding, the diocese of Budim was subject to the Metropolitan of Sremski Karlozci. Prior to the first
3530 World War, since the Serbian nation was divided, the church was divided into seven independent churches. These were the Metropolitans, The Church
3531 of Dalmatia, the Church of Bosnia, and finally, the diocese of America under Bishops jurisdiction. The Metropolitanite of Karlosci was an autocephlis as were Belgrade and Montenagro. Bosnia Hersigonia was under the jurisdiction of the Patriarch of Con-
3532 stantinople. Dalmatia was under Buckovenia.

3534 The kingdom of the Serbs, Croats and Slovans were established after the first World War in 1918. The Serbian Eastern Orthodox Church and Holy Assembly of Bishops evolved into what we know it as today over a period of two years ending in either 1920 or 1922. Most of the six religious divisions,

which I previously mentioned, combined together to form the Serbian Orthodox Church; a part of them stayed in the State of Hungary. This is the diocese of Budim parts of Bacha and parts of Temesvar.
3535 After the Organization of the Serbian Orthodox Church the relationship between the diocese of Budim and the Holy Assembly of Bishops in the Serbian Orthodox Church in Belgrade was exclusively
3537 higherarchical and canonical. Significant differences exist between the relationship of the diocese of Budim and the diocese within the Serbian Orthodox Church in their relationships with the Church. We in Budim had nothing to do with our Church constitution. Our diocese and our church in Hungary were conducted and regulated by a document which was drawn at a Sabor at Karlovci and approved and signed by the Emporer of France Joseph of Austria-Hungary. The Sabor which drew this document in 1864 anad 1865 consisted of laymen and church men.
3542 The document which this Sabor produced governed all aspects of the actual life of our church in Hungary and the relationship between the church and the State of Hungary.

3544 *Cross Examination.*

The last Bishop of Budim was Dr. Georgije Zubkovich who served from 1911 until 1952. He was elected as Bishop of Budim by the Metropolitan of
3545 Karlovci. There is a diocese of Budim in the Serbian Orthodox Church and it has as its administrator his holyness Patriarch German in Belgrade. I did not
3546 see the release from the Bishop of Budim when I left there after World War II, but after I was accepted by Bishop Dionisije, Dr. Zuzkovich, the Bishop of Budim, gave me my release. The American

3547 Diocese of the Serbian Orthodox Church was cre-
3548 ated, I believe, in 1917 under Russian Jurisdiction. It was not created by the Russians or by the Serbs but they were under Russian jurisdiction. I consider myself a priest of the Serbian Orthodox Church. The highest archical body in that church is the Holy Assembly of Bishops with its see in Belgrade.

FIRMILIAN OCOKOLJICH:

3550 *Cross Examination.*

In 1949 I was assigned by Bishop Dionisije to a parish in Pittsburgh and at that time there was some trouble in that parish. The parish did not belong to any ecclesiastical authority. They called themselves orthodox, the Serbian Orthodox Independent Church
3551 of St. George. It had been in existence, I believe, since 1905. At this time they did not recognize any hierarchical superior. They had both Russian and Serbian Priests at one time. When I went there the congregation voted as to whether they wanted a Serbian Orthodox Priest or whether they wanted to keep the Russian Priest and by a great majority they elected me to be parish priest. Then under a court
3552 order the parish voted to determine whether or not they wanted to belong to the Serbian Eastern Orthodox Diocese of America and Canada and they voted to join that Diocese. They did not obtain the consent of any Russian Orthodox Clergyman to join the Serbian Eastern Orthodox Diocese. Such a Church would not have the right to withdraw from the Serbian Diocese even upon the vote of its congregation.
3553 A Father Savich, a Serbian Priest, was in that parish before I got there. To my knowledge Father Savich,
3554 when he was priest at this independent church, did

not recognize the ecclesiastical authority of the Serbian Orthodox Diocese despite the fact that he was a Serbian Orthodox Priest and that was the reason for his defrockment. I served as administrator at Shadeland from 1950 and spent about 2 years overseeing the property and the people that lived there. I was
3555 not the first administrator at Shadeland as for sometime Bishop Dionisije took care of the property and then a clergyman, Father Miodrag Djurich was there as administrator. Then the Reverend Nakanor Paljich held the job immediately prior to my assignment there. During the time I administered Shadeland, I had no reason to make any complaint, charge or accusation to the Holy Assembly of Bishops or the Synod regarding the conduct of Bishop Dionisije towards Shadeland. At no time did I make any complaint, written or oral, charge or accusation concerning the conduct of Bishop Dionisije to the Holy
3556 Assembly of Bishops or its members prior to May
3557 10, of 1963. I spoke with the investigating commission that arrived in 1963 and answered all the questions that they asked. They asked me if Bishop Dionisije had asked for money for the servicing of the church in Pittsburgh and I replied that he had and then they asked the financial secretary of the church congregation to show the check he received.
3558 This was the traveling expense for Bishop Dionisije. It was not unusual for a church when it requests a Bishop or a Clergyman to travel to attend the church for services or function to pay his traveling expenses. The commission also asked me about traveling expenses in connection with a church in Elizabeth, New Jersey. I do not recall any other questions. I was Secretary of the Diocese in the

beginning and then when I went to Detroit in 1940
3559 another man was appointed. When I came from England in 1945, I was again appointed Secretary and I remained as Secretary until 1956. At one time I handled the receipt and placement of displaced persons who arrived in New York, but I currently do not perform this duty. No member of my diocese performs such a function. To the best of my knowledge no member of the Serbian Church in America does this, but I know that the clergymen take care of the people who come from the old country. If someone comes to Detroit, the Priest will help him find a job and a place to live. Part of my job was providing affidavits that immigrants would have employ-
3560 ment when they arrived in this country. To my
3561 knowledge no one is designated to execute the affidavits and assist displaced persons in the Serbian Orthodox Church of America.

Redirect Examination.

Arranging for numerous people to come to this country was a voluntary effort on my part; I was not appointed or designated by anyone to do this.
3562 When I originally came to this country it was at Bishop Dionisije's request. Prior to coming I obtained a canonical release from the Bishop whose jurisdiction I was then serving. This is the general practice in the Serbian Orthodox Church. I used personal funds in 1956 and 1957 as to Diocesan affairs because there was no money in the Diocesan or Monastery treasury. When the auditing board came to examine the financial business of the Monastery and the Diocese I explained to them I was using money of my own and that there was more than $11,000.00 in unpaid bills. The auditing board thanked

me in writing for doing this. Further investigation was part of the regular check on the books of the diocese and monastery. There is a copy of the original report on file with the diocese signed by the auditing board. PX 157 is in Serbian and entitled "Report of the work of the auditing board of the American-Canadian Diocese" dated September 6, 1956 and is signed by the Very Reverend Jovan Marcetich who was president of the auditing board and also by the members of the auditing board, Nikola Chabraja and Milan Madrinich.

ROBERT VUYOVICH, testified as follows:

Direct Examination.

My name is Robert Vuyovich; I live in Chicago, Illinois and am employed as a trucker. I have resided in Chicago all my life and am a member of the Serbian Orthodox faith. I am a member of the Serbian Eastern Orthodox Diocese of the United States and Canada, an Illinois Religious Corporation, and have been a member all my life. I am a member of the Diocesan Council and was first elected in 1960. I was freely elected at a Sabor by the lay members and clergy. I have served on the Council from 1960 until the present.

Participants in the Sabor are freely elected by each church throughout the country. Every clergyman is automatically a member of the Sabor. The members of the Diocesan Council are elected by delegates of the people. The Diocesan Council has met approximately every three months since I was elected.

I was born on December 5, 1921. During World War II, I served in the United States Navy. Just prior to getting married, I joined the church as a

paying member. To my knowledge there is no other Serbian Diocese in the United States or Canada other than the Serbian Eastern Orthodox Diocese for the United States and Canada, an Illinois Religious Corporation. The Bishop of this Diocese from 1940 until May of 1963 was Bishop Dionisije. To my knowledge, he was not Bishop of any other religious body during that period. The Diocesan Council of which I am a member did not act in behalf of any other religious body.

The Diocesan Executive Council acted as trustee for that corporation based on the customs and usage of the diocese. In addition to being a member of the Diocesan Council, I am president of my Serbian Church in Chicago which is the Old Holy Resurrection Serbian Orthodox Church. I am a member of the Board of the St. Sava Monastery Corporation and have held that position since 1962 or 1963. I am currently one of the directors.

Old Holy Resurrection Church was organized in September of 1964. This was a result of the problem which arose in our parish in May of 1963. We formed the Old Holy Resurrection Church and were in disagreement with the people who remained in the Holy Resurrection Church. Prior to May of 1963, there were two Serbian Orthodox Churches in Chicago. One was the Holy Resurrection at 1905 W. Schiller and the other was St. Michael's at 98th and Commercial.

Now there are four churches which includes St. Simeon, 3500 East 114th Street. St. Michaels and Holy Resurrection are under the jurisdiction of Bishop Firmilian. The four other churches are under Bishop Dionisije and Irinej. Prior to 1963 church

membership was counted by the head of the family. In other words, a man and his wife and his children would be counted as one member regardless of the size of the family.

The membership of Holy Resurrection Church was about 500 members. Prior to 1963, I was Vice-President of the Holy Resurrection Church. There are four churches currently which recognize Bishop Dionisije.

St. Stevens of Decani has a membersihp of about 250 and St. Nicholas of about 125. St. Simeon has about 600 members and Old Holy Resurrection Church has about 500 members. The building we are now in was once an English Evangelical Church and we now use it as a complete church structure. From my own personal knowledge, I can state that the other three churches, Stevens, Nicholas and Simeon, are organized churches using church buildings in every sense.

The meeting that occurred in Libertyville on June 6, 1963, was a Plenum meeting. A Plenum is the second highest authority on our diocese. The highest authority is the Sabor and then we annually call a Plenum meeting because of the expansion of the diocese and the administrative work load. The Sabor meets every three years as provided for in the constitution of the corporation. The Plenum meetings are held annually.

The June 6, 1963, Plenum meeting was emotion packed as Archimandrite Firmilian came into the meeting at a certain point and demanded that we turn everything over to him based on the letter he had from the Patriarch in Belgrade. Bishop Dionisije was there at the time. I would estimate there were

forty to fifty people at this meeting. I was there at the time the meeting was called to order, but Bishop Firmilian was not present. Bishop Dionisije was conducting meeting and when it came to his attention that Archimandrite Firmilian was in the kitchen, he asked one of the members to go to the kitchen and invite Firmilian to join us. At that time Archimandrite Firmilian entered the meeting and proceeded to the head table where he presented Bishop Dionisije with an envelope. Bishop Dionisije refused to accept the envelope. After this rejection Archimandrite Firmilian walked out and a few of his followers accompanied him.

Vladimir Mrvichin who testified earlier in this case is my brother-in-law. I had a conversation with him in regard to the burial of his mother. He called me from Los Angeles where he was living and asked me what the restrictions were, as he would like to bury his mother in Libertyville. I talked to the Bishop and burial was approved with the only restriction that Father Mrvichin could hold the grave side services, but any other services would have to be conducted by one of our priests. Father Mrvichin's mother was brought to the cemetery at Libertyville and I attended this ceremony. The funeral went off in an orderly manner and we had priests available on requests. At no time did any investigating committee from the Holy Council of Bishops ever approach or question me concerning the conduct of Bishop Dionisije. To my knowledge no one in my parish was ever approached.

Cross Examination.

Priests we had available at the cemetery are those who recognize Libertyville and the diocese of the United States of America and Canada.

3597 The meeting that took place in 1963 took place on property owned by the Monastery Corporation, a non-profit corporation. Due to our expansion, we had to hold Plenum meetings annually and started this procedure in 1960 or 1961. There was no provision
3598 to my knowledge in the constitution for Plenums, but, because of the tremendous amount of book work, these meetings became necessary. St. Stevens was organized in Chicago prior to May of 1963, but at that time had no property as it was just a group of people who were trying to organize.

3599 I was involved in the Court litigation over Holy Resurrection Cathedral in Chicago. We had to get an injunction from the Court so that we could hold an election. After the election was held, our side lost by 20 votes.

Exhibit 92, admitted in evidence as a charter of the Serbian Eastern Orthodox Diocese for the United States and Canada, a religious corporation, is the corporation I referred to when I said that I had been
3600 a member all my life. I was born in 1921 and the corporation was incorporated in 1935. Prior to that, as a member of my father's family, I was part of the Holy Resurrection Serbian Orthodox Church on Schiller Street, which is a church corporation.

3601 Prior to 1935 my father belonged to the Libertyville diocese of the United States and Canada which was a religious body. I would say that PX 30 appears to be the constitutional by-laws of the religious cor-

poration. The second page of this document indicates the constitution went into effect in 1927 with later revisions.

3604 I have never heard of the Serbian Eastern Orthodox Diocese of the United States and Canada, a New York religious corporation or of Bishop Dionisije as the president. I do not know who is president of the Illinois Religious corporation of which we have been
3605 speaking. I consider myself a member of the Serbian Orthodox Church, and as far as I am concerned the highest Ecclesiastical authority in that church is Bishop Dionisije.

3644 FATHER ALEXANDER IVANOVICH, testified as follows:

Direct Examination.

I am Alexander Ivanovich. I live at Libertyville, Illinois, St. Sava's Monastery. I was born in Yugo-
3645 slavia, 7 July, 1935 in the town of Valjska-Kamenca, presently under the Communists. I attended elemen-
3646 tary schools and gymnasium there. Then I went to a Serbian orthodox school for clergy seminary in Prjren. I entered the seminary in 1949 and I was out in 1954, a four year course. I then went to the
3647 theological university at Belgrade. After one year at Belgrade, I was drafted into the Army. While at Belgrade I studied theological subjects. Then I spent two years in the Army; 1955 to 1957. There was no provision for exempting theological students from military service in Yugoslavia.

3649 While in the military service I did not obtain a rank or grade, for we could not obtain any rank because we were theological students and are not classified at all. After completing my military service I
3650 went to my Bishop in the Diocese of Timok in the

eastern part of Serbia and was ordained. This was in 1957 and I was ordained by Bishop Emelian as a deacon, the first level of clergy in the Serbian church.

3651 Since my original ordination, I have been promoted to the rank of Proto Deacon in Zajcar in 1962 by Bishop Emelian. This is my present rank. After
3652 my 1957 ordination I was assigned to Zajcar in the Diocese of Timok and I was appointed to be Deacon of the Cathedral Church in Zajcar and Bishop Emelian's secretary. Additionally, I was Secretary and Prosecutor of the Ecclesiastical Church Court. I continued in that position until 1963 when I left the Country.

3653 I was appointed the prosecutor in 1960 and remained in that position until I left the country in 1963. The Ecclesiastical Court of the Diocese of Timok has the jurisdiction of the Serbian Orthodox Church in that diocese. As Secretary of the Ecclesiastical Court, I was also a member of the Court. When I was first appointed as Secretary to the Bishop my duties as a Deacon consisted of serving morning
3654 and vesper services every day and holidays, and between that time I worked in the office all day. My duties also required me to visit various parishes within the diocese and to keep the records of the diocese. I took correspondence between the priests and the people of the diocese and the Bishop. I was not born in that diocese.

3655 I am acquainted with the condition of the diocese of Timok prior to World War II. We had exactly 120 churches in the diocese before the war and the
3656 same number of clergy. In 1963 at the time I left the diocese, there were the same number of churches.
3657 However, there were only 31 priests and only 31 of the churches were in operation. During the six year

period I was connected with the diocese no one from the town of Zajcar was married in the church.

3661 Offer Of Proof: Based on my comparison of the records before the war everybody was baptized and now only 5%. During the six years I was connected with the diocese there was no Sunday School or Church program in the various parishes.

3662 These programs had existed prior to World War II. There was an active Sunday School program in these 120 churches in the diocese prior to World
3663 War II. End of the offer of proof.

I was assigned to the Cathedral Church of Zajcar commencing in 1957.

3667 Offer of Proof—About fifty people, old people, mostly ladies, attended church on Sunday. The average attendance on a Sunday prior to World War II was from 200 to 500. During the time that I served at the church during the week, no one came to morning or vesper services held at the cathedral. I am familiar, in my capacity as secretary, with attendance throughout the diocese of Timok. The situation was the same in the 31 churches which were operating. The others were closed. End of the offer of proof.

3669 I am only familiar with the building of new churches or the rebuilding of existing churches in the Serbian Orthodox Church in Yugoslavia which occurred in my diocese. There have not been any churches built since World War II. There are a few churches which were unfinished at the time of the war that have since been completed. I know of six churches which were not completed. I am familiar
3670 with an attempt to start a church in Zucobach in the middle of our diocese. The church in Zukobach is
3671 one of those six unfinished churches to which I made

a previous reference. The people in the parish made an attempt to complete the church after World War II with the Bishop's aid, that is, Bishop Emilijan. The people collected some money and they donated some work to complete the church and the government stopped it. I have knowledge of this because I was sent personally by Bishop Emilijan to investigate.

Offer of proof—People who tried to finish the church were beaten and punished by the government. End of the offer of proof.

3674 The diocese of Timok did not receive any money from the government during the period of time that I was with the church. My salary was paid by the Cathedral of Cajcar. The money was raised by selling candles. The source of money for the operation of the diocese of Timok presided over by Bishop Emilijan was from assessment of the churches. Bishop Emilijan's salary consisted in part of monies received from the diocese and in part from Belgrade. The money from Belgrade was sent to the Patriarch by the government. Some portion of the Bishop's
3675 salary was paid by the government. It was a practice of clergymen in the Serbian Orthodox Church who left Yugoslavia prior to 1963 to disregard the procedure of obtaining permission from their Bishop or from the government before leaving. There was
3676 no practice with reference to a clergyman obtaining the permission of his Bishop or the government prior to leaving Yugoslavia before 1963.

3677 This course was changed after 1963. Prior to 1963 we did not punish anybody who left Yugoslavia. After 1963 they did.

3678 I am familiar with the Religious Affairs Commission of the Yugoslavian government. This is a com-

3679 munist government body who completely controls the church in Yugolsavia.

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FATHER JOHN MEYENDORFF testified as follows:

Cross Examination.

3776 I'm the same John Meyendorff who testified earlier. Before testifying I read plaintiff's exhibits 1 through 4 and the sub-exhibits incidental thereto concerning the action of the Assembly on May 10, 1963. I also read the constitution of the Serbian Orthodox Church before forming my opinion. I do not recall
3777 who had authority to amend the constitution under the terms of the constitution of the American-Canadian Diocese. I assumed that the actions creating the three new dioceses and the suspension deposition and defrockment of Bishop Dionisije were taken by men of good spirit under the rules of the Serbian Orthodox Church.

VERBATIM TESTIMONY

[3777] Q. Do you recall who had authority to amend that Constitution under the terms of the Constitution of the American-Canadian Diocese?

A. Well, I certainly recall that this Canadian-American Diocese recognized itself as part of a hierarchical structure of the Serbian Orthodox Church and recognizes the canons and Holy Assembly of Bishops. This is something I remember very clearly.

Q. There is no dispute about that. My question is, who is it that prepares or initiates amendments to this American-Canadian Diocese, if you can recall through your reading of that Constitution?

A. I cannot recall offhand.

Q. I take it, Father, that in arriving at the opinions to which you testified regarding the creation of three new dioceses and the suspension, deposition

and defrockment of Bishop Dionisije, that you assumed that these—that the action reflected by the exhibits which you read were actions taken by men of good spirit under the rules of the Serbian Orthodox Church.

A. Well, this was my definite impression, yes.

ABSTRACTED TESTIMONY RESUMED

3778 I did not attend any of the proceedings of the Serbian Orthodox Church in connection with the division of the diocese or the suspension, deposition or defrockment of Bishop Dionisije. When I read the documents I made a judgment that they appear to be in proper form.

3779 I read the indictment of Bishop Dionisije. I assumed that the charges by and large made in the indictment were true and that's part of the basis for my opinions.

When I stated that Canon Law is something like Anglo-Saxon I meant the common law. I wouldn't
3780 say the canons amount to precedent but are a body of canonical texts which have authority in the Orthodox Church; there is much which is mainly precedent but there are also formal legal texts as well. The constitution of the Serbian Orthodox Church is canon law as far as the Serbian Orthodox Church is concerned. I did not read the penal code of the Serbian Orthodox Church in preparing to testify and I am not familiar
3781 with it. In giving my opinion as to the suspension, deposition and defrockment of Bishop Dionisije I did not consider whether or not the penal code of the Serbian Orthodox Church had been complied with. My impression and familiarizing myself with
3782 the exhibits was that the procedures were correct. I did not consult Articles 67 and 90 of the Rules and

Procedures of the Ecclesiastical Courts of the Serbian Orthodox Church which are referred to in PX 1. The penal code is not a kind of canon law; it is rather a kind of set of procedural rules which the Holy Assembly of Bishops applies in accordance with the canon law of the church. It should be based on the canons. The procedural rules are obligatory for the body which issued and applies them. If the Holy Assembly of Bishops refers to the procedural rules
3783 I presume that they are authoritative.

An autocephalous church is one which is totally independent in its government and particularly in the appointment of its bishops. Autocephalous means that the bishops are elected in the framework of the rules of this particular church. An automonous church is normally a church which is in a situation of dependence towards a higher body in one way or another. There can be large autonomies or there can be restricted autonomies. If its constitution is so defined, an automonous church could have complete freedom in terms of its own Council and be dependent on another higher authority for the election or consecration of its bishops. I would make a distinction between a wide use of the word "autonomy" and the very sort of clear definition which is usually given to an automonous church. There are a number of well-known autonomous churches in the Orthodox Church today.

I testified that consensus among the Orthodox Church is a difficult thing to define but by and large it means approval by fellow bishops and fellow autocephalous churches. The canons provide that in certain cases a decision by the Holy Assembly of Bishops may be subject to review by the bishops of an-
3785 other autocephalous church. There is no require-

ment for one Orthodox Church to obtain the approval of another Orthodox Church in decisions regarding internal affairs. By and large the other autocephalous churches do not express opinions upon the conduct of another autocephalous church, unless the appeal is addressed, for example, to the ecumeni-
3786 cal patriarch in Constantinople. The canons give a right to the Assembly of Bishops of the Synod of the
3787 Ecumenical Patriarch to give an opinion. I do not know of any particular procedure for the ecumenical patriarch to follow. By and large consensus is a matter generally implied.

I testified that there is concensus among the Orthodox Churches and bishops in this country and abroad with respect to the diocese and suspension deposi-
3788 tion and defrockment of Bishop Dionisije. This concensus is an important element in my opinions. If the decision of the Holy Assembly of Bishops had been considered unjustified in the Orthodox Church I would not say that the decision was justified. It is
3789 regarded as being legitimate. The fact that there is a concensus was a very important element in arriving at my opinion.

I read quite an amount of literature and various decisions and acts concerning this case since 1963 and they were widely published. The exhibits that I examined and testified to earlier impressed me by their volume but there wasn't anything substantially new there which I didn't know before. I had largely formed my opinion before I read those exhibits. This
3790 concensus is an important element in the forming of my opinion.

The Russian Metropolia of which I am a member has never been dependent on Athenagoras. It is an irregular situation as far as the patriarch of Mos-

cow is concerned. There is concensus among Orthodox Churches that the Metropolia is recognized as a valid Orthodox Metropolia. One of those autocepha-
3791 lous churches is the Serbian Church. The recognition of the Serbian Church is welcome I obtained permission from my bishop, Metropolitan Irinej, before I testified.

(The witness reads PX 8).

3792 PX 8 relates to the deposition of Bishop Dionisije. Deposition is the removal of a bishop from his canonical duties in a diocese, canonical pastoral duties in a diocese. There is no canon which forbids an As-
3793 sembly of Bishops to punish a bishop. It is certainly implied in the text that the action against Bishop Dionisije was an ecclesiastical punishment or reprimand although the text does not yet defrock him nor does it impose upon him a kind of penance. It does remove him from his position as bishop of the American Diocese for cause. PX 8 indicates that the Assembly of Bishops were sitting in judgment upon
3794 Bishop Dionisije. No decision of an Assembly of Bishops is infallible; the Orthodox Church believes that infallibility rests only in the Ecumenical Councils. Those councils that have been repudiated by
3795 subsequent Ecumenical Councils are considered as pseudocouncil. I wouldn't say the recognition of the Florentine council as a pseudocouncil came many years after the council met.

The Council of Florence met in 1438, 1439 in Florence and was called as a union council by the Pope in order to secure unity between the East and the West. It reached a series of decisions in favor of union.
3796 Most of the Eastern delegates upon returning to their own countries declared that their signatures were given under duress and they refused, within the fol-

lowing months after the Council, to recognize this Council as valid. At the time it was held it was considered to be an Ecumenical Church; it declared itself to be an Ecumenical Council. Subsequently the de-
3797 cision was repudiated. As a result of this Florentine Council, the Russian Orthodox Church declared itself to be independent of Constantinople and assumed its autocephaly openly.

The Seventh Ecumenical Council met in 787 and condemned the so-called iconoclasts. Its acts were distributed in wrong translations so that it was not in the best interests of Charlemagne to accept this Council but it finally was accepted.

3798 This Ecumenical Council held by icons in churches were to be removed because they were being prayed to. This Council was never recognized by the Orthodox Church as being ecumenical. The Seventh Council in 787 was called for the purpose of putting down the heresy of the Council of 753 which declared that the icons were to be removed. The Council of 753 was a Council of the bishops of the church of Con-
3799 stantinople, fundamentally. The large part of the Eastern world was under Arabic occupation and I wouldn't say that the patriarchate of Constantinople included the whole Christian world. There were patriarchs of Alexandria, Antioch and Jerusalem at that time. These patriarchs and the Pope of Rome did
3800 not send representatives. According to the Orthodox point of view there was no patriarch of Constantinople in 753 because he was heretic. The meeting was
3801 called by the emperor of Constantinople. There was no patriarch of Constantinople in 753, not even a heretic. Because the State forbade any possibility
3802 of rejecting the Council it was not repudiated until 787.

The bishop is the pastor, the head, the teacher, an example to his flock and he has the responsibility to lead the flock to the kingdom of God. If the flock is in need of defense, he is certainly the defender and advocate in matters of religion and doctrine. There are incidents in church history in which an Orthodox Bishop suspended the ties of his flock with the Mother Church in defense of that flock and that diocese. My own church in America is an example.

3803 With respect to my church, following the Communist Revolution of 1918, there were tragic and dramatic events. In 1920 the patriarch and his Synod issued a ruling saying that the bishops who could not communicate with the patriarchate could practice temporary self government. That was done by Patriarch Tikom. On the basis of that decree the metropolia here declared itself temporarily self governing as early as 1924. It never denied the canonical moral authority of the patriarch over there and tried
3804 to re-establish communication. The real break came in 1931 with a request for a de facto political loyalty to the Soviets. At this point the real moral dilemma arose and this temporary self government had to be revoked.

The Patriarch of Moscow suspended the bishops of the metropolia and put them under trial. However, this break never went to the point of any judgment. Since judgment was never pronounced they really thought this request for loyalty was not a free action and even the patriarchate itself was not quite convinced of acting in freedom. The other Orthodox Churches failed to side with the patriarchate in this case.

3805 The condition of temporary self government still exists in the United States with regard to the Rus-

sian Metropolia. It is the consensus that bishops and all the Russian Metropolia clergy can celebrate divine liturgy with other clerics of the Orthodox Church.

In the nineteenth century there were cases of a similar kind in the case of the Greek Church. For example, their relation with the Greek Revolution of 1921 which lasted for a few years.

In my book, *The Orthodox Church*, published in 1962, I devoted a section to the Serbian Orthodox Church. In that section I related more or less that during the last two decades, the Serbian Orthodox Church has had a series of trials in terms of persecution by the civil authorities of the country of Yugoslavia. I also cited a series of notorious trials of bishops. Bishop Joseph of Skoplie was arrested in 1950 just before the patriarchial election where he was a likely candidate for the Patriarchate. Vikinte
3807 was elected at that election. I have also documented the arrest and sentencing in July of 1954 of Bishop Arsenius of Montenegro. I made this statement at paragraph 164 of the American edition "The situation seems to be somewhat improving at the present time owing to a more conciliatory attitude on the part of Patriarch Vincent of 1954 through 1958 and Germanus' election in 1959."

3808 Germanus is Patriarch German. I also referred to some rather brutal treatment of Serbian clergy in Yugoslavia following the second world war. I worked for the World Council of Churches and Patriarch German is president of the Council. I met Patriarch German in England last summer when he participated in the sessions of the Central Committee. I do not deal with the office of President of the World Council
3810 because I am not on the staff.

Following the refusal of Metropolitan Platon of the Russian Metropolia, the Sabor of that metropolia met and passed a resolution temporarily suspending
2811 its relationship with Moscow. The metropolia supported the decision of Metropolitan Platon.

I am familiar with Professor Alex Bogelpov who is presently connected with St. Vladimir's Seminary as a retired professor. He was the professor of canon law at St. Vladimir until he retired last year. I
3812 succeeded him in the teaching of canon law. He was professor of canon law for 15 or 20 years. I am familiar with the professor's book entitled *Toward an American Orthodox Church*. It is a book which deserves respect and it is considered in studies regarding the Orthodox Church. There are those who
3813 disagree with his opinions and my opinions.

The Serbian Orthodox Church was first given autonomy or autonomous status in about 1832 and autocephalous status in 1879. Patriarch Joachim III was patriarch in 1879. He may have written a letter to Prince Obrenovich but I doubt that this letter was the canonical act which established autocephaly. I
3814 agree with the statement of Professor Bogelpov in his book at page 21: "It is true that the letter of Patriarch Joachim III concerned the Serbian Church as a national one, but even in this case the national principle was again subordinated to the territorial; the Serbian Church was recognized as independent, as long as its members were within the borders of the State of Serbia. However, the Orthodox Serbs living outside the Serbian state, for example, in Austria, were not regarded as belonging to the autocephalous Serbian Church, and they were not granted its privileges."

I have no knowledge whether any of the dioceses of the Serbian Orthodox Church inside Yugoslavia have constitutions but I believe that they do not. I know the American diocese has one.

I agree with professor Bogelpov's statement in his book at page 22: "This statement by Patriarch Alexis evidently rested upon canons 13-15 of the First and Second Council of 861 in Constantinople. These canons permit and even approve withdrawing from communion with higher ecclesiastical authorities who publicly preach a heresy already condemned by the Holy Council of Fathers." There is canonical authority for withdrawing from communion with a hierarchy for dogmatic reasons, not for canonical. When there is a conflict of beliefs and principles concerning the order of the church I would agree with the professor's statement at page 23: "Therefore canons 13-15 of the Council of 861 are no restriction on the broader meaning of the thirty-first apostolic canon and hence, the reasons for secession can be canonical as well as dogmatic." There is no doubt that the canons permit withdrawal if the higher authority betrays orthodoxy, betrays the faith of the church concerning God, Christ, or even the structure of the church and this withdrawal is of necessity. But this withdrawal should imply a motivated accusation of heresy and obstruction of the canons of the church. This was not at all the case of the Russian church in America which never accused them of heresy and spoke only of temporary possibility of administration.

I did testify that there was some conditions necessary for a church to receive autocephalous status. Generally speaking, I would agree with Professor

Bogelpov's statement in page 24 of his work: "If an ecclesiastical region not only fulfills the three principal requirements necessary for receiving autocephalous status (canonical origin, presence of a least three duly-appointed bishops, and location and estate other than that of the Mother Church), but also as other reasons forcing it to separate from its Mother Church, then these additional reasons take on special importance; they force the ecclesiastical region to use its canonical rights to complete the independence and speed up the process of separation from the Mother Church." The professor does not mention here a condition which he speaks of in other pages of his book, that of the recognition by the Mother Church of other churches which is a necessary prerequisite for a canonical autocephaly. I testified that one of the necessary elements would be the consent of the Mother Church.

I agree in the context in which he speaks with professor's statement at page 29 of his work: "The distinction between the separation of clergymen from communion with their superiors and the establishing of a new local church is of great importance for the understanding of the canonical meaning of different types of separation in the Orthodox Church. While the withdrawal of clergymen from communion with their hierarchical superiors is generally an enlisted and arbitrary action, the establishing of a new local church is not necessarily a schism but may be canonically lawful. Consequently, persons taking part in the canonical organization of a new church are not liable to punishment, as required by the First and Second Council of 861. The opinion that the Mother Church alone is entitled to grant autocepha-

lous status not only has no basis in the canons reviewed, but is also inconsistent with the principles of orthodox canon law." The professor's statements refer to the establishment of a church for the orthodox in a country, for example, an American Orthodox Church.

There is unity of faith in the orthodox faith but there certainly is not unity of administration and discipline. I agree with the statements of Professor Bokelpov at page 45 where he states that there are very few examples of a Mother Church granting autonomous or autocephalous status to a subsisting part of itself in a comparatively short time and notes that in a number of cases the patriarchs had to recognize churches after they had proclaimed themselves independent, the Church of Greece 17 years after proclaimed itself autocephalous, the Romanian Church 20 years after, the Albanian Church 15 years after, and the Bulgarian Church 72 years after. The Serbian Church was recognized 30 years after it proclaimed itself independent and the Russian Church 140 years afterwards. In the twentieth century the Patriarch of Moscow recognized the Finnish Church 35 years after it had been granted autonomy. I do not feel that these illustrations apply to the con-
3825 flict of an individual diocese with their Patriarch.

Redirect Examination.

3826 I didn't have time to read the whole penal code this morning but I did read the two paragraphs referred to in the act of the deposition of Bishop Dionisije. I was confirmed in my opinion after reading these two articles. I read the first sentence of Article 67: "The initiation of the due process is not

3829 bound by any formalities." A suspension is a tem-
3830 porary measure which is taken in general practice of canon law when a person is called on trial. The deposition is a canonical action depriving the bishop from
3833 his functioning in the diocese and requires a procedure.

(Beginning of an offer of proof) In my opinion the indictment is not required to be under oath. An
3834 oath has been widely considered as anti-scriptural and therefore is not required in ecclesiastical courts. (Offer of proof is closed and the offer is refused).

In the penal code I know of nothing which requires
3835 indictment to be under oath.

The Church of Finland and the Church of Crete
3838 are autonomous churches. The Serbian Orthodox Diocese of the United States of North America and
3839 Canada, a religious body, is not an autonomous church. The term autonomous church is used for churches which are composed of two or three dioceses and they are well known as such among the Orthodox Churches
3842 today. Incorporation is a legal term which is a recent origin in America and which belongs to secular law and therefore does not belong to the church as such although the church while it's in the word has its own property and can use such concepts as incorporation as an instrument for keeping its property.

I read PX 84 before testifying and I had that in mind when I gave my opinions with respect to the division of the diocese and the suspension, deposi-
3845 tion and defrockment of Bishop Dionisije. In my opinion, with respect to the validity of the defrockment of Bishop Dionisije, I did assume the truth of the portion of the indictment which reads: "For breaking his episcopal oath and for refusing to sub-

mit to the decisions of the highest church authorities—the Holy Episcopal Council and Synod of the Serbian Orthodox Church." I also assumed the truth of the recital at page 2 of the judgment: "For his refusal to participate orally and directly in an investigation before the investigating committee of the Holy Epis-
3848 copal Synod, concerning the charges submitted against him."

In rendering my opinion with respect to the validity of the defrockment of Bishop Dionisije I assumed the truth of the following recital in the judgment: "For officiating in church ceremonies and for performing the duties of diocesan bishop after having been indicted and suspended from the performance of church
3849 ceremonies and relieved of the duties of diocesan bishop." In rendering my opinion I assumed the truth of the following: "For accepting clerics who had no canonical release, as well as persons who were under suspension from the performance of church ceremonies, and for entrusting them with paro-
3850 chial duties." I also assumed the truth of this recital in the judgment: "For committing wrongdoings of a material nature and for conducting himself in a manner unbecoming priestly rank and position." I also assumed the truth of the statement: "For ordaining and bestowing ecclesiastical ranks of honor on such persons who according to the canons do not possess
3851 the necessary qualifications for ordination." And "For proclaiming the Serbian Orthodox Diocese of America and Canada fully autonomous and separating it from the Mother Serbian Orthodox Church at the so-called Church National Assembly held November 13 and 14, 1963." (Beginning of offer of proof)
3852 Some of the foregoing paragraphs I have recited

would be sufficient in themselves to warrant defrockment. The first, relating to refusal to participate orally and directly in investigation and the fourth for committing wrongdoings of a material nature standing alone would be sufficient to warrant defrockment. I think a more thorough canonical investigation on my part would be necessary to give a direct answer. I am assuming the truth of the facts recited and I can only be affirmative one hundred percent on those two paragraphs. (Offer of proof concluded and the Court refuses same). I have Exhibit 8 before
3855 me. I assumed the truth of the facts recited in
3856 paragraphs 1 through 12. (Beginning of offer of proof). There are paragraphs here which seem to be in my opinion sufficient grounds for deposition, paragraph 3 which refers to not recognizing the Court of
3857 the Holy Synod and 7. Four and five are the same as three. Number 8 is the same in substance as before. Number 9 is obviously going far beyond the rights of a diocesan bishop. Ten, eleven and twelve
3858 are follow-ups of 9. (Offer of proof concluded and it is refused by the Court).

3859 I recall testifying that I read PX 1. A serious canonical accusation which the Assembly accepts to place under investigation warrants the suspension of a bishop. Once the suspension is pronounced a trial is the legal obligation for the Holy Assembly of Bishops. The bishop under suspension cannot per-
3863 form his episcopal duties and functions.

The word schism has been used widely in connection with this case. (Beginning of offer of proof)
3864 In a letter Bishop Dionisije wrote to the Patriarch of Moscow he calls the Patriarch of Serbia a schismatic patriarch so one of them is certainly a schis-

matic. I personally believe that Bishop Dionisije is schismatic. I guess those who pay allegiance to him
3865 are in the same situation. (Offer is closed and refused by the Court).

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ALEXANDER IVANOVICH (Previously called) testified as follows:

3920 *Direct Examination.*

DX 12-A is a photostatic copy of the official government paper of Yugoslavia which concerns itself with the religious affairs commission. Exhibit 12 is an accurate translation of 12-A. DX 13, at page 30, pur-
3921 ports to be the report of the subcommittee to investigate the administration of the Internal Security Act and other internal security laws in the committee of judiciary of the United States Senate, Volume 3, printed for the use of the committee on the judiciary U.S. Government printing office, Washington, in 1965 under the title, "The Church and State Under Communism". On page 30, the reference is to the government commission on religious affairs decree creating a government commission of religious affairs, August 21, 1945, superseded by a decree of February 26, 1959. This is the same religious affairs commission to
3922 which I had reference in my prior testimony. DX 14 purports to be a letter addressed to His Grace the American and Canadian Bishop Lord Dionisije from the president of the Holy Bishops Synod, the Serbian Patriarch German, dated September 26, 1961. I recognize the signature on this document as that of the Patriarch and also the seal which is affixed thereto.

3948 In 1962, I recall an Assembly of the Holy Council of Bishops. At that time Bishop Emilijan was a

Bishop. I am acquainted with Nikolai Rachich who is vice-president of the Religious Affairs Commission in Zajecar. I recall that he asked for an appointment with Bishop Emilijan shortly in advance of the meet-
3949 ing of the Holy Assembly of Bishops. At that meeting Bishop Emilijan was present, Nikolaj Rachich was present, I was present and Proto-Dragisa Mila-
3950 tich was present. Mr. Rachich said, "Your Grace, you are going to the Holy Assembly for a few days. However, there will be a matter about Bishop Dionisije who is now in the United States and is the enemy of
3951 our country and doing everything against our country." He also told the bishop that Bishop Dionisije should be removed from his position. Bishop Emili-
3952 jan replied, "We know all that is not everything what is to be, but we will see what we can do." Bish-
3953 op Emilijan then went to the meeting. I recall in
3954 July of 1963, a conversation took place in Bishop Emilijan's office between the same two parties. I was present this time as was Dragisa Milatich.

3955 This meeting occurred just before the special session of the Holy Synod in Belgrade. Mr. Rachich said, "We want Archimandrite Firmilian to be bishop in the U.S. and Canada." Bishop Emilijan replied, "He is not moral qualification for the position." Rachich then said, "This is not important. Our government wants him and he will be good for us and for you too." Finally the Bishop said, "We
3956 have some documents in the Holy Synod possession against Archimandrite Firmilian. Anyway we will see what the other brothers can do." After this
3957 Mr. Rachich offered the bishop his private government car to take him to Belgrade. The bishop refused the offer. Mr. Rachich offered the Bishop a special

coach in the train, however, he refused that and went by ordinary train travel. We walked to the train station and I saw a member of the secret police accompany the Bishop to Belgrade. As secretary and prosecutor I was not allowed to vote in accord with the decisions. However, on one occasion I recall being involved in an Ecclesiastical Court action when I was permitted to vote.

Offer of Proof. The higher Ecclesiastical Court objected to my presence as prosecutor and secretary. End of the offer of proof.

Cross Examination.

I am married and was at the time I left Yugoslavia. I have children who are with my wife in Yugoslavia. My child was born in 1958. I have participated in divine services with Bishops Dionisije and Irinej since 1963. I left Yugoslavia for Switzerland and from there wrote Bishop Dionisije asking him to take me under his jurisdiction. After a month in Switzerland I went to Italy and remained there for a year and a half. Bishop Dionisije appointed me to a church office as secretary of the church congregation in Trieste There were a number of priests appointed at that time. Dushan Vavich was one of the six priests who escaped with me. Before leaving Yugoslavia I made a request to Bishop Emilijan for permission to leave. I received that permission in writing but I no longer have it. The permission was for one month in Switzerland and I did not tell him that I had no intention of returning to Yugoslavia.

PX 158 is a letter which I received from Bishop Emilijan subsequent to my leaving Yugoslavia. PX 159 is my response to Bishop Emilijan. PX 160 is the last communication which I have received from Bishop Emilijan.

I recall becoming knowledgeable of the fact that the Holy Assembly of Bishops met on May 10, 1963, and took action with respect to Bishop Dionisije in the American-Canadian diocese. I do not recall the date, but I was still in Yugoslavia when I heard about it. I learned about it through the communication directed to Bishop Emilijan.

Witness excused.

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ALEXANDER IVANOVICH testified as follows:

Cross Examination (Continued)

Bishop Emilijan did not ask me if I did not intend to return after my 30 day leave in Switzerland and I did not inform him that I would not. I do not know if the World Council of Churches, at any time during the period when I was in Yugoslavia, supplied any money to any clerics of the Serbian Orthodox Church in Yugoslavia. I did not receive nor did I request a canonical releases from Bishop Emilijan from my duties as deacon and proto-deacon of the diocese of Timok. During World War II, many of the hundred and twenty churches in the diocese of Timok were badly damaged. The bishops or the clerics and many people assisted in the rebuilding of these churches, but by October of 1963 none had been restored.

As there were only 31 priests remaining in the diocese, services were only being held in 31 Serbian Churches. It is the practice in Yugoslavia for priests to travel from church to church and congregation to congregation. These priests officiated at baptismals and funerals, but during the six years I was there I never saw a marriage in one of these churches. During all of the time I was in Yugoslavia and a cleric

in the diocese of Timok, I never witnessed a marriage ceremony in my diocese. The Holy Liturgies were
4143 performed only in churches and on the rarest of occasions in other buildings, but never in a home. A
4145 priest is allowed to participate in one holy liturgy on a Sunday. There was no rule which prevents a priest
4146 from one parish going to another to deliver the Holy Liturgy.

4148 In Yugoslavia the people attended services during
4149 the Easter period and a celebration was held to cele-
4150 brate the new year. I accompanied Bishop Emilijan
4178 to the Sabor of the Holy Assembly of Bishops in 1962. We traveled by train. We traveled first class
4181 which was a separate compartment containing two
4186 beds. I accompanied Bishop Emilijan on his journey from Cajkar to Belgrade to attend the meeting of the Holy Assembly of Bishops in July of 1963. Bishop Emilijan was not a communist. Bishop Emilijan did
4187 not summons me to return to Yugoslavia after my departure.

4188 What has been marked as PX 158 was received by me and is signed by Bishop Emilijan and it bears the seal of the Bishop and diocese of Timok. The letter of Bishop Emilijan dated 27 July, 1968, did not request that I return to Yugoslavia and assume my clerical duties there. Exhibit 158 which is that letter states in part, "On the basis of the above Assembly's decision, we are calling you to return to our Mother Church and regulate your canonic status with our Bishops over there. His request was that I regularize
4194 my canonic status with the Bishop of the Serbian Orthodox Church with its patriarch and Holy Assembly of Bishops in Belgrade; that is the Bishop of that church in the United States. I refused to do so.

PX 160 is a document which I received here in America and is signed by Bishop Emilijan and has the diocesan seal. It is dated December 24, 1969, and is addressed to the Father Alexander. This document
4198 in part states that I was notified to regulate my canonical status, and failing to do that, article 91 of the proceedings for ecclesiastical courts would be
4199 applied. Since I have not repented and returned to the church, by declaratory judgment, they have deprived me of the rank of deacon and at the same time erased me from the list of clerics of the diocese of Timok returning me to my former position of layman.

4201 *Redirect Examination.*

PX 159, also marked as DX 15, is a letter dated November 18, 1968, addressed to His Grace Bishop of Timok, Emilijan. This letter was written by me in response to the Bishop's letter to me dated 27 July, 1968.

4213 After my departure from Yugoslavia I tried to bring my wife with me, but permission was refused by the government. My wife has made many efforts
4214 to come to the United States. I received these documents marked DX 16 and 17 from my wife which are letters from the Yugoslav government denying her permission on her request for a passport. Both letters are signed and sealed by the Republic of
4216 Serbia. I have also written to my senators and sent money to my wife. Finally in 1960, I went to Trieste and she came to see me. My wife came across the
4219 border at Trieste without our child and told me, "They allowed me to come and if you are joined to Bishop Firmilian, I will come with child to you". This was in 1968 at the beginning of August.

4223 *Recross Examination.*

The last I saw Dushan Vavich was in 1963 when I
4224 left Trieste. As I have not talked to him since then, I have no idea what he considers with respect to his clerical jurisdiction.

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4586 ZIVAN STEFANOVIC testified as follows:

Direct Examination.

My name is Zivan Stefanovic and I am a Cleric of the Serbian Orthodox Church. I was born in Yugoslavia on August 26, 1911 and I was ordained in 1934
4587 in Skoplje, Yugoslavia. I attended High School in Uzice and Seminary in Bitolj. I graduated from high school in 1927. I entered Seminary in 1927 and graduated in 1932. I attended the Theological Faculty in Belgrade from 1938 till 1942. I graduated from the University of Law at Belgrade attending the
4588 university from 1946 till 1950. I was a professor for two years in the monastery Rakovica teaching canonical law. After my ordination in 1934 I was working with the church court of the diocese of Skapolje from 1934 until 1938. Then I was transferred to Belgrade's church court where I stayed until the end of 1944. Then I was transferred to the High Church Court in 1944 and stayed there until February 27, 1965. I left Yugoslavia on March 9, 1965. The president of Belgrade's Church Court is the Patriarch, first Gabriel, then Vicente and now German.

4589 My titles or position depend upon the years; in the first years I was like a clerk assistant. The first
4591 three years of court service are preparatory. In 1937 I was given the examination required for positions of church court's judges. I then became a permanent service in the court. From June 1, 1938 till December 1944 I served with the Belgrade Diocese Court. I did not hold any title in connection with
4593 that service. From December 1944 until February 27, 1965 I served the High Church Court and the Holy Episcopal Synod from 1952 to February 27, 1965. (Defense Counsel notes that he is handing PX 68 B, the Serbian of the Church Constitution to the witness) The High Church Court is referred to in Article 71 to Article 81 of the Constitution. I was referent to the High Church Court. This position is mentioned in paragraph 72, sub paragraph V. (The
4595 interpreter states that in English it would be "C".)

The duties of the referent in the High Church Court are various. At the present time the church hasn't the financial means to keep a bigger number of Clerk in the High Church Court. As a result I
4596 had to prepare everything that was needed for bringing up the judgments from members of the High Church Court, 3 Bishops and two members of priestly rank. I was involved in the meetings dealing with reports of matrimonial nature and criminal matters on priests. The High Church Court made short decisions which I worked out and prepared in official form as is customary in the High Church Court.

I had duties in connection with Holy Bishops Synod. I was the referent in the Holy Bishops Synod and editor of the official Serbian Church newspaper, Herald. I was referent from 1952 until 1965. During the times of Patriarch Gabriel and Vincente I was not present at the meetings of the Holy Synod. Beginning with the election of Patriarch German I
5497 participated in the meetings. In the Holy Synod the

work is divided into legal, administrative, financial and schools. I was given the sphere of legal matters but I worked in others.

4601 My duties in the Diocese in Skoplje from 1934 to 1938 were in general preparatory procedure, participating with one of the members of the court in questioning witnesses, writing the minutes about their testimonies, reworking decisions which have to be sent to parties participating for the court, or calling upon witnesses who have to come before the court at a certain day. I also worked on subjects which were not purely church nature and which involved decisions on the basis of civil law. For mar-
4602 riage questions we had the church cordex under the title of marriage law of the Serbian Orthodox Church. In relationship between parents and children we had the state law. I brought the decisions, taking care of what the church requires and what the state laws prescribe.

There is only one supreme church court in the Serbian Orthodox Church. For Bishops the constitution foresaw a separate court, the Holy Bishops Synod in the first degree and in the last degree the Holy Bishops Assembly. Two kinds of subjects are
4604 considered by the supreme court, one coming by official duty and the other by complaint. Article 79
4606 of the constitution of the Serbian Orthodox Church states the kind of cases considered by the supreme ecclesiastical court. The court does not consider any case in the first degree. It is the second degree court and all of its decisions are final; no one can appeal
4607 from these decisions. As referent of the supreme church court I had to accept every subject, report it in the recording book, study the content of the first

decision of the lower church court, the complaint and all the papers and documents. After that I had to investigate whether the judgment of the lower court violated some regulation of the constitution or the
4608 code of procedure. After that I wrote in written form in the shortest manner what the judgment contained, what the complaint contained, what the papers and documents contained, and I gave my recommendation to the members of the court for their decision. When several subjects had been prepared I informed the president of the court and he
4609 called meetings. (Discussion among counsel and the court that witness's term "Complaint" means "Appeal".)

4611 When the day arrives the president comes with four members, two of whom are bishops and two priests functioning as honorary members as is required by article 72 of the constitution. When all
4613 the papers from the first degree diocese and court are read supreme court agrees on the judgment or nullifies it. If the judgment is nullified the reasons have to be given for nullification. I kept two books of these meetings. The first served to write down the decision of the meeting and the second, which is worked after the meeting, to prepare the judgment as a whole for signature by the president and the members of the court. The judgments given to the parties were signed by the president and the refer-
4615 ent. I prepared the judgment order of the supreme court.

4616 After World War II I was a member of a legal committee formed by the Holy Bishops Synod. I crossed the border in 1965. I was appointed to the committee by the synod. The name of the committee is the legal committee.

I was the editor of the Herald from 1955 to 1965 having been appointed by the Holy Synod. The Herald is an official journal of the Serbian Orthodox Church composed of two parts, the decisions of the Holy Assembly and the Synod and the decisions of the Diocesan Bishops and the second part, various articles from the cultural life of the Serbian Church of the Serbian People. It is known as the Herald or Glaznic.

4618 When I was a teacher at seminary I wrote a book on family law in which I handled matrimonial law, parental law, and guardian law. I taught church law and the Serbian language in the seminary.

After reviewing the appeal I made a recommendation to the court for its action. When a judgment
4620 of the diocesan church court is annulled the judgment of the supreme court quotes the law which was wrongly applied and instructs the diocesan court how their mistakes or errors are to be corrected by a new judgment. I composed the instructions to the diocesan court.

4621 I have examined PX 69A. I am familiar with the document. It's the penal law of the Serbian Orthodox Church, consisting of two parts, one part up to article 63 named material regulations of penal law and the second part, article 63 to the end of article 92,
4622 procedural law. This penal code was written in 1961. I am familiar with the customs, procedures and practices followed by participant in matters being processed under the penal code of the Serbian Orthodox Church. I am familiar with section 67 of the penal code.

4634 Article 70.35 of the constitution of Serbian Orthodox Church states that a Bishop is judged in the

first degree by the Holy Bishops Synod. In the second and last degree the Bishop is judged by the Holy Bishops Assembly. This is spoken of in article 69.27B. There is no appeal from a last degree judgment. In the penal code the judgment of Bishop is spoken of in article 63 which in the main repeats the regulations of the constitution. I will read the provision of article 70 to which I just referred. Point 35 says it is understood that "Holy Bishop Synod Judges in the first instance a. Discord among the bishops, b. canonical offenses of Bishops, c. disciplinary courts violation of its organs and judges
4636 their discords, d. in the last instance of disciplinary offenses, of the teachers person and personnel of religious schools and seminaries."

The assembly of bishops judges in the second instances and article 69.27 B states that the assembly judges all cases in which the Holy Bishops Synod in
4638 the first degree judged. I just read from exhibit 68B.
4639 In order that the thought would be in full I had to add that in the second and final instance judges all the cases in which the Holy Synod in the first in-
4641 stance judged. The Holy Assembly judges in the first and final instance, as spoken of in article 69.27A the discord among the Bishops and the Holy Bishops Synod or among the Bishops and the Patriarch, and canonical offenses of the Patriarch.

4642 Court of first instance must render a judgment or decision of the case under consideration. Article
4643 63 of the penal code requires the court of first instance to make a decision. This article refers to judgments by diocesan bishops, diocesan church courts, the supreme church court, the special church courts foreseen by article 70.35 and 69.27 of the Serbian Orthodox Church constitution.

The Penal code indicates which court shall retain
4646 jurisdiction until process is concluded. Article 64
4647 provides in part: "The church court which was in jurisdiction for starting the procedure retains its jurisdiction up to the end of the procedure." (Coun-
4649 sel for defendant reads this sentence from PX 69 the penal code, article 64 "The ecclesiastical court which had competence to initiate the due process shall retain its competency until the process is concluded.")
4650 All judgments which are brought by the Synod on canonical offenses of Diocesan Bishops are appealed to the Assembly according to article 67.27 which decides the case in the second and the final instance. Article 78 of the penal code concerns appeals from the decision of the Holy Synod. (Defense counsel
4651 quotes article 78 of PX 69 "Appeals against judgment decrees of the Courts of the first instance are allowed to be made to the Court of the second instance except in those cases mentioned in article 108.19 and article 217.2 and article 69.27 of the constitution of the Serbian Orthodox Church."

4652 Article 77 and 124 of the Serbian Orthodox Church constitution and article 82.2 and 3 of the penal code prohibit certain members of the Holy Bishops Synod when acting as a Court from participating in the judgment of a particular case. The same articles apply to the Holy Assembly when acting as a Court.
4654 Defense counsel quotes article 77 of the constitution "A member of great ecclesiastical court who is personally interested or has participated in investigation or as judged (the same) in a lower instance (court) cannot adjudicate that subject." Article 124 is also read: "A member of the ecclesiastical court who is personally interested or one who has participated in the investigation of the subject being adjudi-

cated cannot take part in the judging.") (Defense
4655 counsel quotes article 82 of PX 69, the penal code: "The court of the second instance will annul the judgment decree of the court of the first instance: . . . 2. If it was not properly and duly constituted and 3. If in the deliberations disqualified or bribed persons participated.")

I am familiar with article 90 of the penal code which was in force and effect during the year 1963. (Defense council reads article 90 "In those cases provided for in article 69.27 and article 70.35 of the constitution of the Serbian Orthodox Church, the rights of the diocesan bishop as provided for by these statutes shall be assumed by the Holy Assembly of Bishops respectively, the Holy Synod of Bishops according to the regulations of the constitution of the Serbian Orthodox Church and the regulations of these bodies for conducting business." (Lengthy discussion continuing to page 4686 concerning trial dates is omitted.) (The Court states that the wit-
4692 ness is recognized by the court as an expert in the interpretation of the penal code)

4693 Article 63 of the penal code refers to the procedure prescribed for both monks and priests. The same procedural rules apply to the prosecution of charges against the Bishop as are applied in the prosecution of charges against a monk or priest.

4694 I am familiar with the procedures and practices existing under the penal code during the years 1963
4697 and 1964. In the penal code there are two kinds of offenses mentioned for the clergy. One is of a smaller nature and does not go to the ecclesiastical court, being resolved by the bishop of that jurisdiction who punishes by warning or repremand. Article 56 also

provides for lesser offenses penance for 15 days and suspension from service in the church for 30 days.

For offenses of a more serious nature the bishop does not execute the power of the church court but the accusations are transferred to the ecclesiastical court which will, after due proceedings as found in the rules of procedure, pronounce its judgment. Article 57 of the penal code as well as articles 216 and 217 of the constitution refer to this. Article 55 of the
4698 penal code is identical with the provision of the constitution. A punishment imposed by a bishop is spoken of in article 56 of the penal code. The term
4700 used to describe a punishment imposed by a Bishop is "Disciplinary Punishment". This term is used in articles 44 and 56 of the penal code. It is also used in article 60 of the penal code.

4703 Article 56 of the penal code divides all offenses of priests and laymen into two categories. In the first category belongs a warning, reprimand, penance for 15 days and suspension from clerical duties for 30 days. These penalties are not pronounced by a church court but are pronounced by the Bishop. Article 56 of the code and article 217 of the constitution speak of this. The second category of offenses includes transfer to another place of service, suspension from clerical duties for more than 30 days, loss of a place of service for those who are not parish priests, suspension from clerical duties for life, defrockment, defrockment with expulsion from church membership, expulsion from the order of monks. These are the punishments for the clerics. These things are recited in article 216 and 217 of the constitution and article 55 of the penal code. A Bishop does not handle mat-

4705 ters of a more serious nature but they are handled by the constitution and the penal code.

4708 When a report comes charging a criminal offense against a cleric, whether it is a bishop, a priest or a deacon, the organ, be it the bishop or the Holy Synod, because the Holy Synod executes the right of a Bishop according to article 90 of the penal code when a bishop is in question, makes a report either to the church prosecutor or it appoints another person which will investigate the citations and the report, collect all proofs, investigate the witnesses and all other facts and circumstances. The investigator will return the whole case of materials with all of the facts collected to the organ which appointed him to conduct this investigation.

4709 When the documents arrive the jurisdictional organ determines whether the penalty is of a disciplinary kind or whether the transgression is of a more serious kind in which case all the documents with all the material of the investigation will be transferred to that court for further execution. When the court receives the case, all the documents are given to the court prosecutor and he writes the indictment on the basis of all the collected facts and documents. The indict-
4710 ment is then sent to the parties that are involved. If an answer comes or does not come the court sets a date for a hearing and invites the accused at which time the subject matter is resolved and a judgment is rendered. The court of the first instance sends the case to the court of the second instance either by official duty or by appeal of the interested party. This generally describes the procedure which is conducted against clerics before the church court in the Serbian Orthodox Church.

4715 By jurisdiction organ I mean the Bishop for priests and deacons. For bishops the jurisdictional organ is the Holy Synod, according to article 90 of the penal code. For a Patriarch the jurisdictional organ is the Holy Assembly of Bishops. This is also mentioned in article 90 of the penal code.

4716 The right of an accused to receive the complaints against him is to be found in the last part of article 67 of the penal code. In 1963 and 1964 there was a
4718 practice in the Serbian Orthodox Church with regard to providing copies of complaints against an accused under article 67. Each court has a duty to find the truth in a criminal case. Because of that, during the 30 years that I spent in court it has never happened that somebody was not allowed to receive a written complaint, if it existed, to which he could reply in
4722 writing. (Defense counsel quotes a portion of PX 14, appointing bishops Hirzostom and Visarion: The Holy Synod of Bishops at its meeting under the above mentioned date rendered this decision: relative to the decision of the Holy Synod of Bishops . . . of May 10, 1963 by which proceedings were initiated against his Grace Bishop Dionisije of Midwestern American Diocese, the Holy Synod of Bishops authorizes their Graces Bishops Hirzostom of Branichevo and Bishop Visarion of Banat to go to the U.S.A. and in accordance with article 67 and 90 of the regulations and procedure for ecclesiastical courts of the Serbian Orthodox Church (penal code) to conduct proceedings, to investigate the matter, and to conduct necessary hearings of the accused and witnesses, and to conduct a gathering of evidence, and to submit a report, with all relevant documents concerning their findings, to the Holy Synod of Bishops for further competent proceedings."

4726 Once a Diocesan Bishop, the Synod or the Assembly receive a complaint against one of their clergy they are obliged by article 67 of the penal code to investigate whether the transgression is of such character that they can solve it in their own particular jurisdiction or whether they will give it to a particular person who will investigate the whole case and bring a report of his findings. If the case in question is one where the Diocesan Bishop appoints a special person to investigate, then that person calls the accused, the witnesses and all other persons who may add to the understanding of the case in the locality where the Court is, or if that is impossible, then the investigator will go to the place where the accused and the witnesses live and perform the hearing of the accused and all of the witnesses. When this is accomplished, the investigator will return the whole case with all the documents to the organ which sent to him to perform the investigation. That organ should then decide whether the penalty should be a disciplinary one and then pronounce the judgment in its own jurisdiction or that the whole case, with all the documents, should be given to the Court and appoint a person who will be the church prosecutor if that person is not a permanent officer.

4727 Under article 67 the investigator calls the accused and witnesses and sets up a date, place and time when they have to appear in front of him for a hearing. Then he calls the witnesses one by one. He asks each witness his name and surname, age, place where he lives, reminds him to speak the truth because his testimony will be sworn to. The witness will explain

the whole case, what he saw, heard or experienced in connection with the accused and when he finishes his testimony the accused can then, through the investigator, request explanation about certain points, certain things. After that the investigator will decide whether he accepts the remarks of the accused, that the hearing of the witness, the testimony of the witness should be supplanted, changed, or stand. When the witness finishes his testimony the investigator will read to him what is written about his testimony and then call on him to come and sign the testimony. Then the witness will be sworn. If there are more witnesses, the oath is given to all witnesses together.

4731 After the witnesses complete their answers with regard to the accusation they sign their own testimony and the investigator calls the accused to speak in his own behalf if he has something to say. Investigator records the testimony of the accused and the accused signs his statement. When this is finished the investigator, with the cross and holy gospel, gives the oath to the witnesses regarding their testimony. With that the minutes are finished and signed by the investigator and the secretary who made the minutes.

4732 Unsigned complaints cannot even be given to an investigator. Article 65 of the penal code requires that they be rejected by the organ to whom the complaints are addressed. This article states "Unsigned complaints in no way could be taken into consideration or procedure."

4733 (Defense counsel hands the witness PX 17A) The constitution of the Serbian Orthodox Church and the penal code have no provision or place which gives the right or the authority to the investigator or an investigating commission to do anything other than

conduct the hearing of the accused and the witnesses and collect proofs. The investigator has no right

4734 to issue any proclamation or to call the clergy and the people to partition themselves from the accused and not to obey an order of the accused. The investigator has no right to decide whether somebody is guilty or not but that right belongs either to the organ that sent him to perform the investigation or to the court which should decide about the guilt of the accused.

4735 Article 68 of the penal code tells the investigator what to do with the report.

4736 There is a provision of the penal code which forbids one cleric to insult or scandalize another cleric regardless of whether he does it on his own with that priest or whether he does it openly or publicly.

4737 This is article 39 of the penal code. Details are described in articles 40, 41, 42 and 43.

Article 216.4 of the constitution of the Serbian Orthodox Church provides for the removal of a bishop from his diocese. Article 55 of the penal code also refers to this. I know of no case where a bishop was removed from a diocese in the Serbian Orthodox Church without his consent or agreement. The constitution of the Serbian Orthodox Church provides that a bishop or clergyman can be transferred into another diocese or parish only after a judgment of the church court. Article 217 so provides. A Bishop or clergyman can be transferred to another place of service or diocese upon his own request or with his permission. Article 217 of the constitution, as well

4739 as articles 216.4 of the constitution and 55.4 of the penal code speak about the removal of a diocesan bish-

4740 op. Article 111 of the constitution of the Serbian Orthodox Church states that a diocesan bishop can

be removed from the diocese by the Holy Assembly of Bishops only upon a canonical verdict. The Synod has to judge such a bishop as the court of the first instance for canonical offenses to find him guilty and then the Holy Assembly of Bishops can take the necessary steps to remove him from his diocese. Before that is done, a decision cannot be brought by the Holy Assembly of Bishops or the Holy Synod.

4742 (Offer of proof begins.) I have an opinion whether
4744 or not the action of the assembly as reflected by PX 8A deposing Bishop Dionisije from his duties as a diocesan bishop was a punishment under the constitution and penal code of the Serbian Orthodox Church. The investigating commission was irregularly sent to the Holy Assembly because the Holy Assembly did not send this commission to the United States. Commission was sent by the Synod and all of its recommendations should have been returned to the Synod and after the Synod made its judgment, the case would go to the Holy Assembly of Bishops to be resolved in the second instance. Only then if the bishop is punished for canonical offenses could the Holy Assembly discharge the Bishop from his Diocese. This is foreseen in article 216 of the constitution of the Serbian Orthodox Church in article 55.6 of the penal code. (Offer of proof is closed and the court refuses the offer.)

4746 In July 1963 articles 218 of the constitution and the third paragraph of article 67 of the penal code were in force and effect. (Defense counsel reads article 218 of the constitution "No one can be punished with any church penalty without prior hearing". Counsel also reads a portion of article 67 of the penal code "No one can be punished with any

church penalty without prior hearing." Counsel also reads a portion of article 67 of the penal code "No one can be punished by any church punishment without prior hearing."

4747 Article 69 of the penal code dictates the contents
4749 of the indictment. Article 69.2 states that the indictment has to cite which court has jurisdiction of the
4750 case. The portion of PX 16A, the indictment, on the first page under "Authorize the Holy Bishops Synod" is the paragraph which I have referred to that is required by article 69.2 of the penal code. (De-
4752 fense counsel reads a portion of the indictment: "I am finding: that the Holy Bishops Synod of the Serbian Orthodox Church in accordance with article 70.35b of by-laws of the Serbian Orthodox Church and article 63, rules and regulations for the ecclesiastical court of the Serbian Orthodox Church, is authorized to judge in first instance in case of guiltiness of Bishop Dionisije Milivojevich.")

4753 All offenses that are brought about in complaints may be charged in the indictment. Article 69.3 and 4
4754 states that each criminal offense has to be described, citing the time, manner of commission, explanation of the criminal offense with the naming of the kind of offense as these criminal offenses are classified in article 114 of the constitution of the Serbian Orthodox Church. Offenses are also described in articles
4755 8 through 55 of the penal code. A bishop cannot be accused of any criminal offense which is not named in article 214 of the constitution or articles 8 to 55 of the penal code. My statement is based upon article 9, 214, 216 and 268 of the constitution and article 92 of the penal code. (Counsel quotes article 9 of
4756 the constitution "Church offenses and penalties are those which are prescribed by this constitution ac-

cording to the canons of the Orthodox Church." And article 268: "When this constitution becomes effective, all laws, directives and other regulations cease to be valid which are contrary to this consti-
4757 tution." Article 69.5 states that the indictment is obligated to precisely cite the proofs upon which it is based but does not speak anything about giving the proofs to the accused together with the indictment because it is considered that the accused must have been acquainted and received these documents, proofs, to answer them in writing as is provided in article 67, last paragraph. It is contemplated that the ac-
4758 cused would have received a copy of the complaint against him or a confrontation with the witnesses at the hearing held by the investigating committee before the indictment was drafted.

5759 A complaint by a person who is dead would be considered by the Court and included in the indictment under the condition that witnesses were cited for the statements and the accusation against the accused
4761 person. It is self evident that the witness has to testify about facts which he himself has seen, experienced or gained knowledge in any other manner within his senses. The personal opinions of a witness about a certain event cannot be taken into evidence. (The court accepts the priest's previous two sentences as an offer of proof which is refused) (Counsel
4762 adds to the offer of proof as follows). When I spoke about the subjects of the testimony of witnesses I based my statements on the principle of the law and the judicial practice that the subject of testimony of any person can only be what he saw or in any manner through his own experience. (The court re-
4763 fuses the offer of proof and it is closed) (Discussion
4769- between court and counsel relative to production of
4794 certain documents.)

4794 The position of administrator of a diocese is mentioned in article 12 of the constitution of the Serbian Orthodox Church. (Beginning of offer of proof)
4797 When a diocese is governed by an administrator no reorganization may take place. No important changes can be initiated according to article 12 (sic.) during administration of a diocese. A vacant diocese is governed by an administrator appointed by the Holy Synod. Article 112 reads "Vacant diocese is governed by an administrator who is appointed by Holy Synod. As long as the Bishop's seat is vacant, there cannot be exercised any diocesan function which would effect diocesan organization nor can there be made any important changes in the matters which were initiated during the administration of the former diocesan bishop." (Offer of proof closed and refused)

4799 Article 71 of the penal code indicates the action the Holy Synod must take when acting as a court and arriving at its judgment or decision. (Counsel reads article 71 of penal code: "Upon receiving a reply to the indictment or should the court establish that it was not submitted within the legally appointed time, the court shall in a proper constituted meeting —always in secret session—study all documents and on the basis thereof, voting first in transgression and then on the punishment, decree the judgment. The punishment shall be proper and the judgment decree written up by a member of the court when the presiding officer may so designate.") Article 219 of the constitution requires the subject of canonical offenses have to be considered urgent and the church court is obliged to decide upon it within a year. (Counsel
4803- reads article 219: "Matters of this kind must be con-
4805 sidered as urgent and a church court is obligated to

make a decision within the period of one year.")
4806- (Discussion between counsel, the Court, two interpre-
4820 ters and the witness to establish that the phrase in the penal code translated "disciplinary measures" may also be translated "disciplinary punishment" or "disciplinary penalty". This phrase is used in articles 44, 56, 46, 38 and 60.)

4820 I find the expression "private claim" in articles 43, 44 and 61 of the penal code. A complaint against a clergyman can be submitted by a layman or anyone else or the church prosecutor. When a layman is bringing a complaint against a clergyman it is termed a "private complaint". If the complaint is submitted by the church prosecutor then it is not called a private complaint but a complaint in accordance with official
4822- duty. I am referring to article 61 of the penal code.
4824 (Beginning of offer of proof) The time limit for submitting a private complaint is three months from the day when somebody received knowledge about the criminal offense and the one who committed it. Article 61 of the penal code, point 2 refers to this. A judicial
4826 authority may not accept a private complaint if it is made to him more than three months after the date
4827 of the transgression. (The court refuses the offer of proof)

During the years 1963 and 64 I had occasion to become acquainted with the proceedings against Bishop Dionisije. The procedure began on May 10, 1963
4828 before the Assembly and the Synod. I first became aware of the proceedings on May 10, 1963. I was employed in the Synod and the Assembly sent the
4831 whole case to the Synod. After the investigating committee went to the United States all documents covering the offenses of Bishop Dionisije were given to the Holy Synod. The Synod appointed the church prosecutor, Bishop Vasilije. At that time I received

all the documents which arrived from the United States to look through them, analyze them, put them together in chronological order, make a list of the contents, bind them together, put the seal on them and give them to a person who took them to Bishop Vasilije.

The next occasion that I had contact with the proceedings was December 10, 1963. I was called by
4832 the Holy Synod to give an opinion as an expert about the requests of Bishop Dionisije for a copy of all accusations and for an extension of time to answer the indictment. I was present at that Synod meeting which was held in the Patriarchate. Patriarch German, members of the Holy Synod, Bishop Emilijan, Bishop Valerijan, Bishop Vladislav, and Bishop Pavle were present. Also present was the professor of the theological faculty, Dr. Gardasevich, myself and a secretary, Very Reverend Mladenovich. The
4833 professor and I were called to give an expert opinion
4834 concerning the offenses of Bishop Dionisije. There was another professor invited to attend but he did not show up. Bishop Visarion also attended the December 10 meeting.

There are minutes of the December 10, 1963 meeting and the names of the persons present and the
4850 conversation are recorded in them. Patriarch German opened the meeting and said to Professor Gardasevich and I that we are invited to give our expert opinion on the subject of Bishop Dionisije. The first question His Holiness said is as to which regulations we should follow in connection with Bishop Dionisije. I said that it is difficult now to correct the method used because the indictment of the church prosecutors submitted in October used the constitution of the Serbian Orthodox Church, penal code and the holy canons.

The accused has already received the indictment and requested that he receive copies of all complaints and proofs. At this time Bishop Visarion mixed into the conversation and his participation was stopped by the oldest member of the Synod, Bishop Emilijan who told him that experts had been invited to give their opinion and that Bishop Visarion was not invited and he should not mix in the matter. Bishop
4852 Visarion then left the meeting because he was not a member of the Synod and had not been invited to
4853 be present at the meeting. Dr. Gardasevich and I continued to speak and when the conversation on the first question was ended the professor left. The second question was whether Bishop Dionisije should be given copies of the proofs. This question in discussion lasted the rest of the afternoon until 7:30 in the
4854 evening. I expressed my opinion that the written complaints should be given to Bishop Dionisije. The
4855 Patriarch did not agree with this. I cited text and read to the members the practice in previous years. There had never been a case when somebody was not given the right to analyze the documents and take copies of them.

4856 Patriarch German did not agree with my remarks and I answered to him that I was not there for politics but only to give my expert opinion on how I had been working on these matters and how it had been done for 30 years. Point 3, the request for an extension of time, was then discussed. A Bishop said that the
4857 prayer of Bishop Dionisije should be accepted in as much to give him one month more time, not six months. Patriarch German suggested the meeting be postponed to tomorrow to decide the question of sending copies of written proofs. Bishop Emilijan did not agree and stated that he had to return to his

diocese. At that moment a servant of His Holiness came into the room and said that there was a call from the Commission for Religious affairs and Father Mladenovich answered the phone. When he came back he said that His Holiness and members of the Synod were called by the President of the Commission for Religious Affairs for a meeting and
4858 dinner. Then news was brought that Metropolitan Arsenije had died. Bishop said they could not go to the meeting and dinner with the president of the Commission of Religious Affairs because of the death of Metropolitan Arsenije. After that a decision was reached to reject Bishop Dionisije's request to send him copies of the complaints and proofs.

4861 Following the Synod meeting of December 10, 1963 I next came in contact with proceedings against Bishop Dionisije when Bishop Hrizostom on March 4 brought me the disposition of the judgment by which Bishop Dionisije was defrocked from his episcopal rank. He told me that the assembly had
4862 appointed a committee to compile the judgment. He told me that the Assembly of Bishops had ordered me to add to the judgment the judicial explanations. At that time he handed me the whole case, with the indictment, which I should use during my technical formation of the judgment. I drafted the judgment and took it to a meeting of the Holy Synod where it
4863 was read and accepted. After that it was given to a person who took it to all the dioceses for the signature of the Bishops.

4868 I have an opinion as to whether the alleged transfer of Bishop Dionisije from the American Canadian Diocese to the Middle Western American Diocese was in accordance with the rules and regulations, customs and traditions and constitution and penal code of the

Serbian Orthodox Church. According to the regula-
4869 tions of the constitution of the Serbian Orthodox Church and penal code the Holy Assembly could not transfer Bishop Dionisije to a newly created diocese nor divide the diocese into three newly created dioceses. Transfer, as spoken of in article 216.4 of the constitution cannot be pronounced without a previous hearing of Bishop Dionisije, the conduct of a whole investigating process and a judgment brought by the jurisdictional organ, in this case the Holy Synod. This is spelled out in article 217 of the constitution
4870 of the Serbian Orthodox Church. Only after the Synod had collected evidence, proofs, conducted an investigation, and brought a judgment which has to be approved by the Holy Assembly of Bishops could Bishop Dionisije be transferred to another diocese.

I have an opinion whether the deposition of Bishop Dionisije in July 1963 was conducted in accordance with the rules, regulations, customs, traditions, constitution and penal code of the Serbian Orthodox Church. The Holy Assembly could not depose Bishop Dionisije from his diocese before the Holy Synod brought a final judgment that his transgressions were proven and that he is to be punished by deposition from his diocese. It is the general practice in the
4871 Serbian Orthodox Church that a person cannot be removed from his position until the investigation and judgment are complete. Punishment by deposition from a diocese or parish is not a light punishment, as is reprimand, warning or penance for 15 days, but this is a punishment which can be pronounced only by the court in accordance with article 217 of the constitution of the Serbian Orthodox Church. The jurisdictional court is provided by article 70.35 of the constitution.

4872 I have an opinion whether the alleged defrockment of Bishop Dionisije by the assembly in March, 1964

was in accordance with the rules, regulations, customs, traditions, constitution and penal code of the Serbian Orthodox Church. The Holy Assembly of Bishops acted as Court of the first instance and it was not entitled to do so according to article 70.37b. The court of the first instance is the Holy Synod of Bishops. Because this procedure violated the provisions of the constitution of the Serbian Orthodox Church Bishop Dionisije was not given the opportunity to appeal this judgment. There is no court of the third
4873 instance. Until the 17th century there existed a procedure called "Inquisitional Procedure" which adjudged only in one instance. After the 17th century and in the Serbian Church from the time it was organized, the procedure was always in two stages, one court adjudged in the first instance and the second court judged in the second and last instance.
4874 These two steps are provided by the constitution of the Serbian Orthodox Church and in the case of judging bishops for canonical offenses the Holy Synod should judge as court of the first instance and the Holy Assembly as court of the second instance. The Holy Assembly has returned to the olden times of the "Inquisitional Procedure" in this case.

I have an opinion whether the investigative procedures before trial by the Assembly of Bishops conducted in the case of Bishop Dionisije were conducted in accordance with the rules, regulations, practices, customs, constitution and penal code of the Serbian
4875 Orthodox Church. The procedural process for the transgressions of Bishop Dionisije was not in conformity with the principles of the law of procedure because the investigative procedure did not complete what it was supposed to complete. The commission was sent to perform the hearing of Bishop Dionisije,

have a hearing of witnesses and collect proofs and it did not complete this task. The submissions were taken as testimony when in fact these complaints had to be proved. The prosecutors appeared in the position of witnesses although they had never heard the witnesses. The testimony was never sworn to. Because of this there was no proof in the case when the judgment was brought. Without a hearing and testimony under oath nobody's testimony can be ac-
4876 cepted as proof. Secondly, Bishop Dionisije did not receive the proofs which the church court has used describing his transgressions and offenses and upon which the judgment was rendered. He was not given the opportunity to answer in writing all these accusations.

The penal code has been in effect since 1961. The practices under the penal code which I have testified were followed from 1961 up until 1965 when I left.
4877 The practices about which I testified were followed prior to 1961. Prior to 1961 there was no penal code but there was a constitution in which canonical offenses were regulated and by which clergymen were judged.

4888 I have examined PX 21A and it is the judgment
4890 which I referred to earlier in my testimony. The penal code, Article 82.5, requires that the judgment be based upon the indictment against the accused.
4891 PX16A is the only indictment that was ever given to me. There were amendments to that indictment. Bishop Vasilije made an oral request wherein he sought that the indictment against Bishop Dionisije be extended for his offenses concerning the holding of the church National Assembly November 14, and 15, 1963. The amendment I have just referred to is
4893 spoken of in the judgment. PX21A it is under VI,

page 10 of the judgment which I have. It is also mentioned under part 8 of the judgment.

4896 I have an opinion as to the legal effect of the failure by the prosecutor to forward to Bishop Dionisije
4897 amendments to the indictment before judgment. When the Holy Synod transmitted to the church court prosecutor the joint report of Bishops Stefan, Firmilian and Gregory of November 25, 1963 concerning the Sabor held November 13, 1963, and that report contains the most serious offense of Bishop Dionisije, the church prosecutor should not have submitted it to the assembly as an amendment to the indictment before he transmitted it to Bishop Dionisije for reply or not to reply. This document could not have been taken into account by the Holy Assembly, even if it were competent to judge Bishop Dionisije in the first instance, because the prosecutor did not proceed in the
4898 prescribed manner. (Counsel reads a portion of Article 82 of the Penal Code: "The Court of the second instance will annul the judgment decree of the Court of the first instance: (5) if the ruling in the judgment is in contradiction with the opinion, or if the opinion is in contradiction with the judicial documents upon which it is based.)

I did examine the complaints and enclosures to the indictment at the time they were sent to the prose-
4901 cutor and after the judgment. PX16A is the indictment to which I referred. The indictment included unsigned complaints and enclosures. It also included newspaper articles. Article 65 of the Penal Code
4902 concerns unsigned complaints. (Counsel quotes Article 65 "Unsigned submission shall not in any case be taken into consideration or process."

I speak the Serbian language. I have studied Latin, Greek, Russian, Czechoslovakian, French and Hebrew,

I do not speak these languages. I did not have a
4903 passport to leave Yugoslavia. I have a document to the effect that the government authorities refused to give me a legal passport so I crossed the border illegally.

Cross Examination.

I have the document to which I just referred in
4904 my possession. (Counsel marks that document PX165. The interpreter translates the letterhead "The Peoples Republic of Serbia, The Peoples Committee for the City of Belgrade, Secretariat for Internal Affairs, Department for the Service of Crossing Borders and for Foreigners.")

4906 The Serbian Orthodox Church is episcopal with a rank of Patriarchate. It is church hierarchal and church self governing. One orthodox church can be in union with other orthodox churches but need not be. There exist exiled orthodox churches, as the Rus-
4907 sian Church in exile which came into existence after the revolution in Russia in 1917. Other churches are the Macedonian Church which has no communion with any canonical orthodox church until recently. Until recently the Bulgarian Orthodox Church was not recognized by the Ecumenical Patriarchate. Here in America there exists some church of a Leontyne which does not have a spiritual or canonical union with the Patriarchate of Moscow. There also exists a Polish church which is recognized directly by the Ecumenical Patriarchate but which the Russians do not recognize. Perhaps there are other churches but I have not particularly concerned myself with that question.

4908 I have studied the history of orthodox churches but I have never concerned myself particularly with that field. This was when I studied at the theological faculty and graduated October 10, 1942. The subjects

there were divided into groups, one group belonging to the scriptures, another group to apostolic historical and legal. We studied and passed examinations in these subjects.

4909 The autocephalous orthodox churches in the world include the Ecumenical Patriarchate of Constantinople, that of Alexandria, of Jerusalem, of Antioch, the Russian, the Serbian, Bulgaria, Macedonia, Polish.
4910 There are some in Czecholovakia and Albania. These are small churches. The Greek Orthodox Church exists but it has the rank of archbishopry and it is in community with the Patriarchate of Constantinople. The Patriarchate of Constantinople give the Greek church a certain autocephalous antonomous status with the rank of archbishopry, not of Patriarchate.

4911 The Russian Orthodox Church in exile is scattered throughout the world. The See of that church depends on which group is involved. The group of Anastasia which came from Yugoslavia is in New York. When I was in France there were three or four groups of Russian churches in exile. None of them recognize the Patriarch of Moscow. There is also Polish church in exile which are called Gregories and there are other
4912 Russian churches of which I do not interest myself. The Russian church in exile, that of Antonia and that of Anastasia and that of Leontyne are autocephalous churches because the Rusians had three or four bishops and any church which has that number of bishops and if the people and clergy wish it, can proclaim themselves autocephalous. The only question posed then is whether other autocephalous churches recognize them but that doesn't bother them in existence and working. There need not be three
4913 or more dioceses. All bishops do not have to have

dioceses. The minimum number of dioceses is nowhere mentioned but the minimum number of bishops
4914 is. The minimum number of bishops was rendered from the year 325, that is the beginning of the 4th Century, until the 9th Century. I am referring to the apostolic canons and the canons of the Ecumenical Council. This minimum is not mentioned in the Constitution or in any code. These apostolic rules and rules of the Councils are accepted by the Serbian Orthodox Church. I was a student of a great Russian canonist who taught canon law.

4915 I have mentioned in the United States a Leontyne
4916 Church. This is a church which is tied to the name of a person. The Serbian Orthodox church is tied to the person of St. Sava. Our church is called the Serbian Orthodox Church of St. Sava. While I was in Belgrade Patriarch German asked the Russian Patriarch to cut all ties with Bishop Dionisije. The Russian Patriarch replied that he agrees to this but asked the Serbian Patriarch to give instructions to cut all canonical ties with all Russian exile churches. I wrote an article about this in a Serbian newspaper.
4917 I was referring to all Russian Churches here in America who do not recognize the Communist authority and Communist Patriarch in Russia. I wrote my article after my arrival in the United States in
4918 December 31, 1965. I wrote the article in 1966 or
4919 1967. I do not have the article here.

4921 Prior to 1963 it wasn't important whether Bishop Dionisije recognized any of the church groups in
4922 exile. Bishop Dionisije was in communion with the Serbian Orthodox Church and if the Serbian Orthodox Church held a unity with those churches then the matter was in order without regard to the stand of Bishop

Dionisije. The Russian Orthodox Church in exile in America, the group of Anastasia and Antonia was helped by the Serbian Orthodox Church after the Russian revolution. Similarly, the Serbian Orthodox Church organized a church in Czechoslovakia and in Hungary and kept that jurisdiction up until 1946 when those churches were taken from the jurisdiction of the Serbian church by the Russian church.

4925 (Begin offer of proof) I do not know whether
4926 Bishop Dionisije recognizes the Russian Orthodox Church headed by Metropolitan Leonty at the present time. I don't know whether the diocese does either. (Offer of proof is refused)

4943 In 1952 I was given the clerical rank of deacon. I
4944 was ordained by Metropolitan Josif as deacon. My highest clerical rank before leaving Yugoslavia was
4951 Proto deacon. In August 1965 I received the rank
4952 priest in Dusildorf, Germany. Bishop Dionisije ordained me. Since that time I have paid allegiance
4958 to him. I do not understand what counsel means when he asks me have I paid allegiance to the Holy As-
4960 sembly of Bishops. I have received no edicts or pronouncements from the Holy Assembly of Bishops and have no need either to acknowledge them or not acknowledge them. Orders and decrees are usually sent through confident jurisdictional channels. My bishop has never transmitted to me any order and called upon me to carry them out. He is not obliged even to do so because the canons forbid communication with a person which came to an authority supported by the state Communist authorities.

4962 The Glaznik is a newspaper and official organ of the Serbian Orthodox Church. The first part of the
4963 section of the Glaznik has official announcements of

the Holy Assembly, Holy Synod, Patriarchal Council, Patriarchal Executive Board, Church Court and in general all church bodies. The second section contains various articles published about theology, cultural
4964 history and philosophy. I was editor of the Glaznik for ten years, 1955 to 1965. PX 166 looks like an issue of the Glaznik. Issues are disseminated in this country.

4965 I was a deacon in the Metropolia of Skoplje. I left
4966 that diocese in 1938 to go to Belgrade. Then I commenced duties as clerk with the diocesan court in Belgrade. I served in that position until 1944. I became a Referent during the time of Patriarch Vikentije. There is a difference between a clerkship and a Referentship. Postition of Referent was established only by the new Constitution of 1947.

Metropolitan Arsenje was secretary of the great church court. He was a priest at the time, not a bishop. He was succeeded by Protopresbyter Licinich; the Constitution no longer provides for a secretary of the court.

The minutes of the deliberations the high church court are signed by the President and all members and by the reverend. They bear a seal and they are sent to the parties. I am the keeper of the seal. The
4969 seal is placed between the signatures of the President and the reverend. The document is sealed after the
4970 President signs it. Father Mladenovich was the supreme secretary. In the Synod there are other secretarial positions. There is also the position of reverent, a position immediately below that of the Su-
4971 preme Secretary. I don't recall when Father Mladenovich became secretary.

4972 I reside at 901 Lake Street, Oak Park, Illinois. I am not now assigned to any parish. My first and

4973 last parish was Bellwood which I left June 1, 1968. I was appointed to another position by Bishop Dion-
4974 isije. I don't know Bishop Dionisije's personal mo-
4976 tives for assigning me to another position. I did not
4977 receive PX 168. I have never seen the original of PX 167. This copy should have a seal. I have never
4978 seen the original or a copy of PX 168. I was accompanied by Vera Milinovich or Mustur, her name before her divorce, when I left Yugoslavia. I don't
4979 know if she was the wife of Dushan Mustur when she left Yugoslavia. Her husband did not leave Yugoslavia with her. I don't know her children. I
4980 did not know that she had children. I knew her for about a year or two before I left Yugoslavia. I went
4983 to Italy, France, Germany, Canada and America.
4984 Vera Mustur accompanied me. The time I left Yugoslavia I was married and had a son 30 and a daughter 26. After my divorce and Vera Mustur's
4985 divorce we got married in a civil ceremony in Chicago. At the time I married her I was a priest ordained by Bishop Dionisije and the parish priest of the congregation in Bellwood.

4990 Proceedings for my defrockment were instituted.
4991 A Dushan Mustur initiated proceedings before the
4992 civil court. I received a Complaint. I was also
4993 charged because I came to the group of Bishop Dionisije. I replied to the complaint and contested the competency of the jurisdiction in Yugoslavia because I was no longer in that diocese. I don't know whether a judgment of defrockment was entered. I have
4994 never received a decree nor an invitation to write anything on it. I could have received the charges in 1968.

Up until 1946 the church courts handled all divorce cases because all marriages were church marriages. From May 8, 1946 the state law regulating marriages was promulgated. That law obligates the entering of marriages before civil organs and divorces before the civil courts. Church marriages are not recognized by the state. I did not attend the December 10, 1963 Synod meeting as Referent.

RIGHT REV. BISHOP DIONISIJE MILIVOJEVICH, testified:

Direct Examination.

My name is Rt. Rev. Bishop Dionisije Milivojevich and I was born July 26, 1898 in Serbia. I finished four years of education in my village and then finished gymnasium in Kragujevac. At that time Serbia was an independent state and later in 1918 it became a part of the Kingdom of Serbs, Kroats and Slovens until 1929 when the state became Yugoslavia. When I was born King Peter I was king. King Peter II is the grandson of Peter I and he is living in exile.

After gymnasium I studied law for three years in the University of Belgrade. Then I transferred to the theological university for four years. Then I took a course for teaching and I became a preparing professor at the gymnasium at Kragujevac for two years. I taught religion. Then my wife died and I resigned. I taught at a teachers school and a gymnasium in 1925 and 1926. My students were studying to be teachers in the public schools. I taught religion, geography, philosophy, logic and methodics. I was married at the end of 1924. I had just become a professor at the gymnasium. My wife

became sick and she died after six months of tuberculosis. I renounced my teaching position and went to Athens to become a monk. I went to Monestary Sava, where I received my monastic name of Dionisije. I took three vows to become a monk. I gave vows not to get married again, to obey the orders of the church and holy canons and a third vow of poverty. I was released from the vow of poverty when I became a bishop. I stayed in Mount Athens a couple of months and then returned to the Kingdom of Serbs, Kroats and Slovens in 1927. I was sick of tuberculosis at that time. I went to a monastery recommended by Bishop Nicholi and became Abbott of the Monastery of Dracha for two years. I supervised the monastery and the monks. I had 15 monks and novices. In 1929 Patriarch Demetrius called me to be professor at a monks school in the Monastery of Rakovica near Belgrade. For two years I supervised the monks and gave them lessons in religion and canon law. In 1931 I was selected by the Patriarch to go to Constantinople to the academy of Halko. I learned the Greek language and made a study of the Greek Orthodox Church. I also studied Greek philosophy and history. I studied apologetics, the science of defending Christian teaching from Roman philosophy. After this study I went to Yugoslavia where I became professor of the seminary at Sremski Krlovic. I was professor for two years and taught apologetics, philosophy, religion, canon law and at that time I gave my examination for a masters degree from Belgrade University. My thesis was the Anglican Church under the rule of Henry VIII. A masters degree covered philosophy, religion and so on. The examination is given before a state commission for anyone who wants to be a professor.

Then Patriarch Varnavas sent me in 1933 to be director of the Monastic School in the Monastery of Visoki Dechani where I stayed for five years. I governed the school, had 90 students and taught religion, logic, philosophy, apologetics, Bible stories, and canon law. In 1938 I was elected Vicar Bishop.

The examination I took was written and oral and lasted one week. It was a state rule for the examination for professors. This examination covered general history and history of the Serbian people, philosophy, apologetics, political lessons and so on. I also answered questions regarding canon law. In 1933 when I passed this examination I received recognition as a regular professor in every school in Yugoslavia except the University.

When I became Vicar Bishop I was Patriarch Gabriel's assistant and I had no diocese. I was Vicar Bishop for two years and in the spring of 1940 was appointed by the Royal Deputies to be Bishop of America and Canada. King Peter II was fifteen or sixteen years old and the Royal Deputies made the appointment. I was approved by the Royal Deputies and had a decree from them appointing me Vicar of Patriarch Gabriel. Confirmation of election of a bishop or patriarch belonged to the king so the Royal Deputies had to confirm and issue a decree that I was a bishop. DX 29 and 29A is the document I am referring to. It came from the government. The document is signed by Prince Paul who is related to King Peter. Under the Constitution the Royal Deputies ruled until King Peter became of age. DX 29 is a copy of the document that I received confirming my appointment as a bishop of the Serbian Orthodox Church. I received no other documents indicating that

I had been appointed a bishop. I would have to look in my archives to see if I still have the original. The original might be in Belgrade. I recall seeing the original but I will have to look to see if I have it.

I came to the United States April 15, 1940 bringing with me a secretary, Rev. Firmilian, Rev. Dazgich, and Rev. Balach. A layman who is presently a priest in Detroit also accompanied me. Nicholi Dazgich is the same man who testified in this case and served as an interpreter. Demetri Balach is Bishop of Australia at the present time. I first met Bishop Firmilian in Belgrade. I met him in the Patriarchate when he came from Montenegro from the seminary where he had been released as professor by Patriarch Gabriel. At that time I was Vicar Bishop to the Patriarch. Metropolitan Joseph was present at the time I had a conversation with Bishop Firmilian. I told Firmilian that Patriarch Gabriel would not accept him in his diocese and Metropolitan Joseph said he would accept him in his diocese. I saw the documents presented to Patriarch Gabriel by the Ecclesiastical Court and I know of my own personal knowledge the reasons why Firmilian was released from the seminary in Montenegro. I presided over the Ecclesiastical Court at that time. Bishop Firmilian was involved in a court proceeding. An employee of the National Bank of Yugoslavia came to the court to present charges against his wife and pictures and letters. These pictures showed his wife and Rev. Firmilian together somewhere in the Adriatic Sea and letters showed that he promised to marry her if she left her husband and two children. I took these to Patriarch Gabriel and he looked at the documents and sent a telegram to the supervisor of the theologi-

cal seminary in Montenegro to release Firmilian immediately and told me to proceed before the Ecclesiastical Court.

5133 I traveled by trains and by boat. I took a train from Belgrade to Venice, Italy. Rev. Firmilian did not get on the train with me at Belgrade. I had a
5134 conversation with Firmilian and Metropolitan Joseph in either my office or Metropolitan Joseph's office. The subject was how I could have a secretary for the
5135 diocese. Metropolitan Joseph saw Patriarch Gabriel and got his permission for me to take Firmilian as my secretary to the United States. I had a conversation with Firmilian about leaving. The woman who lost her husband and children was chasing him all around and he was afraid to board the train at
5136 Belgrade. Firmilian said he was afraid of this woman who lost her marriage on account of him and the Ecclesiastical Court and he said he would board
5139 at Scarapazova an hour and a half from Belgrade. I did board this train several days after my con-
5140 versation with Firmilian. Only Mr. Mijatovich boarded the train with me in Belgrade. I had seen
5141 this woman two or three times in my office. When
5143 Bishop Firmilian boarded the train I was in my cuber, the second class on the train. I saw him coming from the station and I saw the woman get off the train and say "Do you mean to go without me." She bent her hands around his neck and pulled him to her between her and her brother-in-law in her com-
5144 partment. I started looking for a policeman on the
5145 train. In Bishop Firmilian's presence I spoke with this woman and told her that I was on an official mission to America. She said that Firmilian had promised to be with her and he would not go anywhere without her. Firmilian did not say anything.

Then we found a policeman and he searched the man,
5146 the brother-in-law and found a gun in his pocket. The policeman put the man off the train at the next station and the woman stayed. I recognized this woman because I had seen her in Belgrade in my
5147 office looking for Stanko, Rev. Firmilian. This is the woman whose husband sued her for divorce and she
5148 lost the case. The letters were written to her in
5149 Bishop Firmilian's handwriting. The decision of the Ecclesiastical Court was that the lady lost the case and that Rev. Firmilian caused her infidelity to her
5153 husband. There were children. (Offer of proof) I recall what Bishop Firmilian said to this woman in the letters that I saw. He said that he would marry her because he was a widower. (Offer is closed and refused)

5154 I got a conductor who took Firmilian to another room and then put the lady off the train. I showed him my diplomatic passport. The woman stated that
5156 she would find him anywhere he went. PX 28 is the
5158 diplomatic passport that I had. (Court states that the incident concerning Bishop Firmilian in 1939 is so remote in time that it lacks probative value and therefore the Court strikes the entire testimony involving the wife and the man and the rest of the
5159 incident. Defense counsel requests that testimony remain as an offer of proof.)

5162 The court refuses the offer of proof.

In 1915 and '16 I served as a volunteer in the Serbian Army until I was imprisoned in a German
5163 camp. I was a private. I was shot through the legs with a dum-dum bullet.

I came to the United States April 15, 1940. After landing in New York I went to Washington to appear

before the Ambassador of our country. I remember coming to Chicago and holding service in the church on Schiller Street. There was a Diocesan Council meeting in the small hall of our church on Schiller Street. The meeting took place about a month after I came to the United States.

DX 30A is minutes of the first convention of the Serbian Orthodox priests and people in America in 1913. I found this book in the archives of the Serbian Eastern Orthodox Diocese. It has been under my supervision since I became bishop in 1940. PX 30 is a true and correct translation of PX 30A, the Serbian minutes. The entire minutes of the meeting have been translated.

PX 31A is the minutes of the North American-Serbian Orthodox priests assembly held in Chicago October 5, 1960 which were produced from our archives at counsel's request. We have an archives where all the documents in the diocese are kept. It is located in our monastery under my supervision. Since April 15, 1940 I have been the keeper of those archives. DX 31 is a true and correct English translation of 31A. I obtained DX 32A from the archives. DX 32 is a true and correct English translation.

DX 33A, 1917 appointment by Russian Bishop Alexander of Father Mardary is dated October 23, 1917. It is in Russian and Serbian. I read and speak Russian, Greek fluently and a little bit of French and German. The translation is correct. I found DX 34A in the archives. 34 is a correct translation. I found DX 35A in the archives of the diocese. 35 is a correct translation.

DX 36A was in the archives and 36 is a true and correct translation. I found DX 38A in the archives

and 38 is a correct translation. 38A is in Russian. I found DX 39A in the archives and 39 is a true and correct translation. DX 40A was in the archives and it is in English. DX 41A, dated April 9, 1924 was found in the archives and DX 41 is a true and correct English translation.

DX 29B is the original confirmation of my election of Vicar Bishop. 29C is a true and correct English translation. DX 48A is the original official paper of the Serbian Orthodox Church dated January 18, 1940. DX 48 is a true and correct English translation. DX 42A is a document found in the archives and 42 is a true and correct translation. DX 43A was found in the archives and 43 is a true and correct English translation. DX 44A was in the archives and 44 is a correct English translation. DX 45 is a true and correct English translation of DX 45B a copy of the Serbian Church organ of the Serbian Eastern Orthodox Diocese of America, pages 3 and 4. DX 46 is an English translation of DX 46A the document found among the archives of the diocese. DX 47 is an English translation of DX 47A, minutes of the Diocesan Council meeting June 5, 1927.

DX 49A is a letter by Archimandrite Mardary calling for an assembly in September 1927. He was a bishop then. DX 51 is a true and correct translation of DX 51A. I found DX 37A among the archives of the diocese. It is the minutes of the priests conference February 21, 1923. DX 37 is a correct English translation. DX 50 was found in the archives and it is an English translation of DX 50A.

DX 52A is the reply of the Assembly approving the Constitution of the diocese and DX 52 is a true and correct English translation. I found DX 53A in the archives and 53 is a true and correct translation.

I found DX 54A in the archives and 54 is an English translation. DX 55 was published by the Serbian Eastern Orthodox Diocese for the United States of America and Canada in 1953 when I was the bishop. It was prepared under my direction and supervision by a committee which included Bishop Firmilian, Rev. Burkich and Rev. Balach. The book was prepared by the editorial committee from documents of the diocese and documents from parishes in the diocese.

Cross Examination.

I became a priest in 1926. I was selected by the Brotherhood of the Monastery of Hilenvarion in Mount Athnos and they sent me to Bishop Nicholi to ordain me as deacon and as priest. Bishop Nicholi was a bishop of the Serbian Orthodox Church. Bishop Nicholi was elected by the Holy Bishops Synod and confirmed by King Alexander of the government of the Kingdom and Serbs Slovenes and Kroats. This election was by the Holy Bishops Assembly and confirmation by the government. When appointed a bishop I did not receive a grammata by the Assembly or the Synod. I was elected a Vicar Bishop in September or November 1938. Article 100 of the 1931 Serbian Orthodox Church Constitution provides that the Patriarch issues a grammata signed by the members of the Holy Synod to newly elected bishops. I did not receive a grammata from the Patriarch of the Holy Synod; I received a grammata from the government of Yugoslavia.

When I first arrived in America I found DX 30A in the archives. At that time it had the note that pages 17 through 38 were missing. I don't know where the

pages are. The reference "they are lost" refers to pages which are missing and I do not know where to find them. I don't know who prepared the translation to DX 38. I was personally acquainted with several of the people mentioned on page 1 of DX 38. All of the laymen therein mentioned are dead. Pages 17 to 38 are blank pages. Something is missing in the sense that the pages are blank. I believe the minutes are true and accurate. The persons listed on page 3 of DX 31 are all dead. I wasn't in America when the minutes were prepared. Bishop Alexander of the Russian Church prepared DX 33A. I spoke with the Russian bishops in New York and they told me that Bishop Alexander prepared it. Mr. Charles Cook prepared the English translation in 1942 or '43. I directed him to underline the portions which are underlined. The secretary of the Ecclesiastical Court prepared DX 34. He prepared DX 34A and 34. He prepared the original in March 5, 1923. DX 34 is either the original document or a photostated copy that I found in the archives. The reference number 7 refers to the book kept by the secretary, Rev. Danilo. DX 35A has the number 1 on it. DX 34 is part of a series of numbers adopted by the Ecclesiastical Court. DX 35 uses a number used by Bishop Mardary. I have a book in the archives that contains a series of letters or reports using numbers. DX 36A is in the same condition as when I discovered it in the archives. The translation was prepared by me and my teacher, Mr. Cook, from Bradley School, in 1942 or 1943. DX 37 is a translation of the longhand portion of DX 37A.

When I came to the United States some of the clerics who are listed on DX 37 were deceased. They are all deceased now. The last three pages of DX 37A

are in the same condition now as when I found them in the archives. The translation was made by my teacher and I in 1942 or '43. The translation to DX
5288 38A was made by my teacher and I in '42 or '43. My teacher died in 1956 or '57. The same is true of
5289 DX 39.

Direct Examination.

5310 I arrived in the United States in April 15, 1940. I was confirmed as the bishop on January 18, 1940 as
5313 indicated in DX 48A. Article 99 of the Serbian Orthodox Church Constitution is referred to in this
5314 article about my confirmation. Article 99 says election of Vicar and Diocesan Bishops is confirmed by the King's Decree upon recommendation of the minister of justice. I do not know where the original
5324 to DX 29 is. I only received this copy.

5332 Exhibit 29A is something I received in January of 1940 and submitted it in 1944 for confirmation of the consul general of the Kingdom of Yugoslavia
5333 in Chicago. I never had the original of this document
5334 in my possession. This document is our grammata given by the government because the Holy Synod did not give a grammata at that time. I was ap-
5338 pointed a Vicar Bishop to the Patriarch in 1938 and, between that time and April of 1940 when I left Belgrade to come to the United States, I was at the Patriarchal Palace where my duties required me to remain. As Vicar Bishop to the Patriarch I performed duties he prescribed, mostly to supervise the Ecclesiastical Court and maintain discipline among the priests or over the Archbishopric of Belgrade
5339 and Karlovci. I was not stationed at the Patriarchal Palace prior to August of 1938, but was at the monastery near the Albanian border. During the time that

I was at the Patriarchal Palace, a period of about a year and a half, I was aware of the rule which permitted only bishops of the Serbian Orthodox Church to have access to the original documents contained in the archives at the Patriarchal Palace. The Holy
5340 Synod and the Bishops Assembly were at all times obliged to give information and transcripts of minutes of their meetings to the government. Priests and clerics in the place did not have access to these
5341 documents. Prior to leaving for the United States I familiarized myself with the diocese here through
5342 an examination of the file in the archives of the Holy
5344 Synod. In the course of reviewing documents in Bel-
5346 grade I found complaints with reference to my coming to this country as bishop. After I arrived in this country, I called the Diocesan Council meeting to acquaint myself with the persons with whom I would have to work. I met with the ambassador in Washington and the Consul General in Chicago and all officials of the Kingdom of Yugoslavia. We first lived
5347 in Chicago and at that time only a monk was in residence during the summer in Libertyville. During my first year I made an examination of the records of
5348 the diocese. I studied English as I did not speak it when I arrived here and part of my lesson was to
5351 translate documents in the archives. The previous bishop, Bishop Damaskin, left approximately a year before I arrived. Prior to Bishop Damaskin an ad-
5354 ministrator ran the diocese. DX 55A is an article
5358 entitled "Serbian Immigrants" which I wrote. Concerning immigration to this country after World War II, I was president of the committee for our immigration Serbs and I sent a circular to all of our priests telling them to bring as many as they could from the

5359 different prison camps. In all we brought around 20,000 people. I wrote the article marked DX 55 which is a history of the diocese from the beginning entitled "Thirty Years since the founding of St. Sava Monastery and 60 years from the start of the Serbian
5363 Orthodox Church in America."

VERBATIM TESTIMONY

[5363] Q. From your study of the history of the Serbian Church in the United States, can you tell us when the first church was erected and where it was erected in this country?

[5364] A. Yes. In Jackson, California in 1894.

Q. And was that just a parish at that time?

A. They had lots of newer surrounds around over there, there are many gold mines where the workers are and so on. Were lots of people.

Q. And was a church organized in Jackson, California at that time?

A. Built and organized.

Q. And was there a Serbian Priest of that parish there at that time?

A. Was.

Q. Do you recall who that was?

A. What?

Q. Do you recall who that was?

A. I think was Sabastian Dabovich.

Q. At that same time, in and/or around 1894, were there any other Serbian parishes or Serbian churches being organized in the United States?

A. They were but few years later in 19—1895 was organized that in McKeesport, Pennsylvania.

Q. Do you recall what the name of that parish was?

A. St. Sava, too, and that was dedicated to Jackson and this in Pennsylvania St. Sava, too.

[5365] Q. Was there at that time any connection between the Serbian parishes that were being organized in this country and the Serbian Patriarch in what was then the Kingdom of Slaves in Serbian—

Mr. Crown: Objection. I don't think this witness has been qualified to answer that question.

Mr. Holmquist: Just a minute.

The Court: Overruled. I believe he is an expert.

The Witness: Those first settlers came from Austria, Hungary.

By Mr. Holmquist:

Q. I don't think you understood my question. You say the first settlers to this country came from Austria?

A. Come from Austria so then they were connected with the Bishops of—Serbian Bishops of—in Austria and Hungary, not with Belgrade.

Q. When these parishes were first being organized in this country in 1890—

A. 1894.

Q, —under whose jurisdiction in this country did they align themselves?

A. They came under the Russian jurisdiction, under the jurisdiction of the Russian Church.

[5366] Q. Tell us a little bit about the history of that. How did that come about?

A. Russian Church in America was older than any other orthodox church of America, older than Greek, and Serbia and Serbian and so on and they came and the Aleutians and from Alaska from over there came down to the America so then they spread through America Continent from over there and from 700, from the time of Peter the Great, Emperor, they

started to settle in the Alaska and Aleutian Islands and came down to Canada, so in that case she start to build the churches. Their priests arrived and build churches and the first settlers since the rights is the same, Serbian and Russian, same Slavic language, they come together, they came together and they came, they came, under the Russian jurisdiction. Very easy.

Q. Was there contact at that time between the Russian parishes in the United States and Canada and the Russian Patriarch in Moscow?

A. Was. Was.

Q. There was?

A. Was. At that time they didn't have a Patriarch in Moscow, they had a Holy Synod. They had Holy Synod. But was connections.

ABSTRACTED TESTIMONY RESUMED

I purchased Shadelands in 1950. From my study of history and my knowledge of this diocese I can
5364 state that the first Serbian Orthodox Church was erected in this country in Jackson, California in 1894. The church was built and organized and there was a Serbian priest there who was I believe Sabastian Dabovich. At this time there were a few other Serbian parishes being organized and in 1895 one was organized in McKeesport, Pennsylvania. The
5365 first settlers that came to this country and populated those parishes came from Austria and Hungary and were connected with bishops in Austria and Hungary and not with Belgrade. Those original parishes organized in the 1890's were under the jurisdiction of the Russian Church. The Russian Church in Ameri-
5366 ca is older than any Orthodox Church here. Since Orthodox rites are the same, members of other

churches in this country naturally came together under the jurisdiction of the Russian Church. There were some connections with the Russian Church in
5367 Moscow and those in this country. There were no connections however at that time between parishes, Serbian parishes which were being organized and the Serbian Church in Serbia. Serbian parishes in this country remained under Russian jurisdiction until the first world war. DX 30 purports to be the minutes of the first convention of Serbian Orthodox priests and people in America dated 1913. That meet-
5368 ing took place in Chicago but since most of these priests also came from Hungary and thought that Serbia would be free after the Balkan Wars, the Serbian Metropolitan Demotrios was afraid to accept all of them. At the 1913 Convention of the Serbian Orthodox Priests and People in America no action was taken with reference to bringing the parishes in the United States under the jurisdiction of the Serbian Church in Serbia because World War I had
5370 started and Hungary had attacked Serbia. The first move to disassociate the American Serbian Churches from the Russian jurisdiction and come under the Serbian Church in Serbia occurred in 1917 when Archimandrite Mardary was sent to establish a diocese. The war hadn't ended yet and conventions and meetings were held and when the Rusians fell under communism he had to organize a completely
5373 new church. The meeting described in DX 31 of the Serbian Orthodox priest's assembly held on October 5, 1916 in Chicago was not a movement to disassociate the Serbian Church from the Russian Church but purely for the organizational purposes of the
5374 Serbian Church. There was no patriarch of the

Serbian Orthodox Church in 1916 or '17 but there were many metropolitans. There was no Belgrade Patriarch as we know it today. DX 32 from the
5375 office of the Holy Governing Synod dated July 6, 1917 is to Hierosinglelos Father Mardary is a document I obtained from the archives and purports to release him from his church teachers duties and appointed him to the service of his grace Aleutian and North American bishop. This refers to the Russian bishop. Father Mardary came to the United States in 1917 to be the assistant of Bishop Alexander. A
5378 convention was called of mixed Russians and Serbians in 1918 and they elected Mardary as a bishop, but at
5379 that time the Russians refused to ordain him and he went to Belgrade at that time for ordination and they elected him as administrator of the diocese in 1921. DX 36 is a letter from the Serbs appointing him administrator.

5427 (Court adjourns proceedings to chambers)

ZIVAN STEFANOVIC

Cross Examination (Continued)

I am married to the former Vera Moustar. I was
5433 divorced in Mexico. I was the plaintiff in the proceeding. The divorce was in November, 1966. I did not
5434 initiate any divorce proceeding in the church courts in Yugoslavia. I have a permanent visa to be in the United States and I am not a citizen. I have not been here for five years so I cannot make an application.

5435-5437 *Limited Redirect Examination.*

Someone informed the Patriarch of my divorce because it appeared in the complaint against me by which I was defrocked. The laws of my former coun-

5438 try did not require a church divorce nor is that required by the laws of this country. (Proceedings are adjourned back to the court room.)

5440 *Cross Examination resumed.*

5442 I recall testifying about serving on church courts. Deacons cannot be members of the court. I was a
5444 member of a court as a referent or secretary. This is spoken of in article 72 of the constitution. I never
5447 represented the Serbian Orthodox Church as a lawyer because I am not registered as a lawyer at the Bar Association. I was a lawyer in the patriarchate because the constitution requires that the referent of the supreme ecclesiastical court have legal knowledge.

The Glaznik was disseminated throughout the church in Yugoslavia. It was distributed to sub-
5448 scribers. In the United States the diocese or the
5449 bishops receive the Glaznik. At the time I attended seminary I had no connection with the Glaznik. I can-
5451 not say for sure what the dissemination policy was before I became editor. The bishop is required to at-
5452 tend meetings of the Holy Assembly but frequently they can't.

5454 The penal code does not require a clergyman to participate in the court proceedings. If a party is summoned to appear before some investigating organ and that party refuses to participate, the investigating commission has only to establish this by minutes for the record and to inform the organ which delegated that commission. This regulation applies to
5456 bishops. I participated in the work on PX 21, the judgment, with the commission which the Holy Assembly appointed. The commission appointed by the

Holy Assembly of Bishops did not actually compile the judgment. The commission consisted of Bishops Hrizostom, Vladislav and Jovan of Shobautz. The
5458 commission said "You draft the judgment. If you need any help, we will be around to help you." Bishop Hrizostom said that and put the documents at my disposal and I proceeded to draft the judgment. I
5459 did not pass judgment and render this decision. I
5460 put together the complaints of the church prosecutor and the decision of the assembly and formed a third element, the judgment, which is here before us. I compiled it but did not type it. I prepared some parts
5461 of PX 21 in longhand. It cannot be said that I am
5462 the author of the judgment. I took the complaint and added the judgment of the Holy Assembly of Bishops. Only Bishop Hrizostom participated in the
5463 compilation of the decree. In the South Bend Church case I said that no one in addition to myself prepared this judgment. My translator did not understand the essence of the problem at the time. I recall testify-
5465 ing in this court in this matter in February of this
5470 year. If I said I drafted the judgment it must be what I said.

5500 NIKANOR PALJICH testified.

Direct Examination.

My name is Nikanor Paljich and I live in Akron, Ohio and am currently employed by the State of Ohio, Highway Department.

5501 In September of 1950, I resided at St. Sava Monastery in Libertyville, Illinois. At that time I was a member of the clergy and in April of 1950, was appointed superior of the Monastery, which is some-

thing like an Abbot. I was ordained in Yugoslavia by the Bishop of Zhica, Nikolai. I first arrived in the
5502 United States in 1947 and was sent by my Bishop to Canada. I returned in 1950, at that time Bishop Dionisije was residing at the Monastery in Libertyville and I was under his jurisdiction. On or about September 16, 1950, I took a trip to what is known as the Shadeland Property in Pennsylvania in the company of Bishop Dionisije. We went to Shadeland to see the farm and the men who were there. On our
5503 return trip we stopped in Akron, Ohio, at the home of Reverend Bora Pavlovich at 142 Firestone Boulevard. He was assigned to a parish in Canton, but lived in Akron. It was my duty on this trip to drive the car and when we arrived at the home of Rev. Pavlovich in Akron, there were just the two of us.
5504 When we arrived we found Rev. Pavlovich and his wife home alone. Bishop Dionisije asked to use the telephone to call a local priest, Emilijan Glocar. Bishop Dionisije made the call but was unable to reach Reverend Glocar and left a message with his wife as to where the Bishop was.

5505 About thirty minutes later Reverend Glocar arrived at the home of Reverend Pavlovich. When he arrived Reverend Pavlovich, his wife, Bishop Dionisije and myself were present.

5506 When the Reverend Glocar entered the home Bishop Dionisije invited him to be seated and asked him to state in front of the three witnesses present whether or not the Bishop has chased Father Glocar's wife Bora around the table in his home and attempted to attack her. Reverend Glocar stood up from the chair in which he was seated and said, "God be with us, Bishop, that is not true, that is a lie. Believe me and

forgive me I don't know why that was needed by
5507 Silaski to spread that falsehood. The people have accepted that lie as true and I don't know what else I can do but only to tell them that it is not true."

5508-5517 Discussions by Counsel.

5518 I resigned my position in the Serbian Orthodox Church. I was living in Uniontown, Ohio, which is a suburb of Akron in March of 1955 after the Bishop went to Loraine, Ohio. I sent my resignation in on the 14th of March, 1955.

5519 *Cross Examination.*

The conversation that I described above between Bishop Dionisije and Reverend Glocar occurred at the residence of Reverend Pavlovich in Akron. I do not recall the Bishop asking the Reverend Glocar to make any public statement to the effect that he had never said the remark that was in question nor do I recall Bishop Dionisije asking him to send a letter to the Holy Synod, or to the Bishop himself to that effect. To my knowledge the Reverend Glocar did not state that he was going to take any action to cor-
5520 rect this matter. This all occurred in 1950 and I have no knowledge as to whether an investigating committee of the Holy Synod spoke to Reverend Glocar subsequently to our meeting. I never had any occasion to discuss this matter again with Reverend Glocar nor do I recall ever discussing it with Bishop Dionisije. I believe that I could recognize Reverend
5521 Glocar's signature. I have examined Exhibit 16-B, page three and at the bottom the date is July 14, 1963, Akron, Ohio.

5522 It is signed Proto-priest Emilijan Glocar. I cannot be sure if this is his signature since I did not have much contact with him. The entire document

is handwritten, but I cannot say for sure if this is his handwriting. The Reverend Glocar has stated
5523 that the information contained in Item 16-B which is enclosure 10 of the indictment, was the act of Dushan Silaski. The first time I ever heard his name was in Akron and I believe he died that same year in the fall.

5524 I had heard that he was the attorney for the American-Canadian Diocese of the Serbian Church, but I do not know if that is true.

ZIVAN STEFANOVIC, testified.

Redirect Examination.

5753 At the time I left Yugoslavia anyone in the United States could subscribe to the Glaznik.

5757 At the December 10, 1963 Synod meeting when the invitation to dinner by Momo Markovich was received, there were some comments. The Bishop who made those comments is still alive and may have some inconveniences if I mention his name.

5758 This Bishop shook his head and said "We know what kind of dinner it is." After that this statement was made "even if this did not exist, that we could not go to dinner because it was related to them that on the afternoon Metropolitan Arsinje died." Momo Markovich is a President of the Religious Commission of Affairs for Yugoslavia.

5770 Begin offer of proof. I am familiar with a Commission in Yugoslav Government known as the Religious Affairs Commission. It came into existence
5773 in either 1945 or 1946. Dx. 21a is an official paper
5774 of the State of Yugoslavia. All laws, regulations and other decisions brought by the organs of the State are printed in this official paper which I have in front of me.

5775 This particular issue is dated Tuesday, August 21, 1945. In it is printed the State Regulations about the creation of a Commission for Religious Affairs. I have seen this Regulation before and I am familiar with it.

5776 The Religious Affairs Commission was functioning from the date of its inception in 1945 up to and including the date that I left Yugoslavia. My Church duties involved me in contacts with the Commission for Religious Affairs.

5777 I had oral and written contacts with the Commission. The organization of Religious Affairs Commission is first a commission for the Federal Republic. Then each individual Republic has its own law forming a Religious Commission of Affairs. Each County has its own Commission, and each commune or local unit has its own organ which represents the organ above them. I had to deal with the Religious Commission of Affairs which is located in Belgrade. In
5780 accordance with the orders from the Patriarch I and others who served in the Patriarch kept contact with the Religious Affairs Commission. After the end of World War II and up until the time that I left in 1965, the Patriarch in the Church received money from the Yugoslav Government through the Religious Affairs Commission.

5791 (The Court states that it does not feel that defense should be permitted to inquire into the contact or relation of the Religious Affairs Commission and the Church and its influence with reference to the action of the Church.

5792 The Court states that its view is based upon *Kedroff*.)

5793-5807 (Court and counsel exchange views on the law.)

5808 After World War II restrictions were placed on

the Church by the Government with reference to the collection of money and the ownership of property. In 1944 the Government forbade the Church to collect donations by the Priests in their Parishes and limited the collection of donations to the Church building only. The State abolished the 10% taxation, the Patriarchal assessment.

5809 The State confiscated Monastery and Church properties and reduced the amount of real estate to that which could be possessed by one landowner. Excaption was made only to the Churches and Monasteries which were of historical value. Some of our monasteries had up to 500 hectaraes of forest and this was reduced to 30 hectaraes.

5810 The Church Parish home was also confiscated in Vojvodine. Later on with the law of nationalization of church property they took away all church buildings except the Parish home. With that act the Church was left without financial or other property means and was unable to prosper without the help from the State. Great amount of financial aid to the Church was given by the World Council of Churches and other organizations in the United States. Twenty percent of the help given was retained by the Church and 80% was received by the State.

5811 Patriarch at the end of World War II was Gabrilo, and he was taken prisoner by the Germans.

5812 His duties were performed by Metropolitan Joseph. The Patriarch was in Dachau. He returned in November of 1946.

5813 The first money given by the State in 1945 was 15 million dinars.

5815 In 1946 I was referant to the Supreme Ecclesiastical Court and doing the work of the Holy Synod.

5816 I had contact with Metropolitan Joseph every day.

I accompanied him on visits that he made to his Diocese.

5817 Help for the Church was received through the Religious Affairs Commission. Monies received by the Executive Board of the Patriarchate through the Holy Synod.

5818 I believe the Patriarchate received between 15 and 30 million dinars in 1946, from the Religious Affairs Commission.

5819 Patriarch Vicente was elected after the death of Patriarch Gabriel in 1950. A record of the money received yearly from the Religious Affairs Commission is recorded in the minutes of the Holy Synod.

5820 I had access to those minutes. In 1963 the Church received 120 million.

5821 There was an organization in Yugoslavia when I left known as the Priests Association.

5822 Such an organization existed prior to World War II, but it ceased and in 1946 or 1947 a group of Priests who participated with one military army called the Partisans organized a new Priests Association under the protection of the State. The State paid the leaders of the Priests Association to help start a paper which is called "Vesnik." The first duty of the Priests Association and of this paper were to attack the Bishops, Priests, and the Patriarch if they did not cooperate with the State.

5823 I know who paid the travel expenses of Bishops Visarion and Hrizostom when they came to the United States in 1963.

5825 The Commission of Religious Affairs paid for the Investigation Commission in 1963 and for the expenses of Metropolitan Damaskin and Bishop Nikanor.

5826 After Patriarch German reviewed the Glaznik, it is given to the printing office. During printing the manuscript is given to the State Prosecutor.

5827 If the State Prosecutor finds among the articles in the Glaznik, one that is in conflict with the State policies they would forbid the printing and institute legal action. There is almost no case that a complaint of the State Prosecutor was dismissed. Later this policy was changed so that when the State Prosecutor complained, we threw out only the incriminating portion of the Glaznik (Herald), the rest of it was printed.

5828 There is a list of candidates for election to the rank of Bishop.

5829 The list is entered in the minutes of the Holy Assembly and is kept in the office of the Synod.

5832 Diocesan Bishops could recommend candidates during each session of the Assembly. Each year the Bishops submit their report and a list of these candidates is maintained.

5836 I saw the list of approved candidates for the rank of Bishop in the year 1963.

5837 Bishop Firmilian was not on that list. At the Assembly meeting in July, 1963 Bishop Firmilian was elected.

5840 Metropolitan Arsinije and other Bishops opposed the nomination of Bishop Firmilian.

5841 I know the reason for Metropolitan Arsinije's opposition. In 1939 and 1940 there is a trial of a divorce case in a Church Court of the Diocese of Belgrade-Klovci.

5842 The case was instituted by Alexander Angelkovich, a Clerk in a Bank, against his wife who committed an unfaithful act with a Priest, Stanko Ocokolijich, his name was changed to Firmilian when he became

a Monk. The divorce was granted and Metropolitan Arsinije was the President of the Court which brought forward this judgment, as he was at that time the Vicar Bishop of Moravice. Metropolitan Arsinije opposed the election of Firmilian on account of the Penal Code and Apostolic Rule #25, forbidding a cleric who commits such an act to become a Bishop.

5843 Metropolitan Arsinije was taken away from the meeting of the Holy Assembly as sick. I had a conversation with him.

5844 The conversation occured immediately after the meeting. He told me that he was restricted from the meeting of the Holy Assembly because he was against the election of Firmilian.

The Commission of Religious Affairs vetoes can-
5845 didates for Bishop, and a candidate cannot be elected until the Commission for Religious Affairs shall remove its veto from the name.

5846 The Glaznik was printed by a man named Doz. All printing presses are nationalized. The Easter message of the Holy Assembly of Bishops for 1964 was printed in 10,000 copies. The State Prosecutor forbade taking the Easter message out of the printing office and it was destroyed.

5848 The act of the State Prosecutor was not taken into a Court proceeding.

5849 The State Prosecutor and the Commission for Religious Affairs ordered no distribution of the 100,000 copies. The objectional part of the message was an emphasis on the Serbian Church's contribution as the main factor in unifying the whole Serbian Nation.

5851 Dx. 59 is religious literature for the Priests and faithful of the Orthodox Church. This book was written by Bishop Nikolai Velimirovich, printed in 1928 in Yugoslavia.

5852 Dx. 60 is a reprint of #59 under the name "The Lives of the Saints." I and another man corrected exhibit #60 at the time that it was printed by the Synod. It was printed in 1961.

5853 Credit for authorship is not given to Bishop Nikolai.

5856 I know the circumstances surrounding the failure to include Bishop Nikolia's name as author.

5857 After the Second World War, Bishop Nikolai did not return to the Country but came to the United States and the State Authorities proclaimed him as the enemy of the State, and when this book was printed they would not allow his name to be mentioned. This is the same Bishop Nikolai who is buried at the Serbian Monastery in Libertyville.

A special Sabor was called to elect a successor to Patriarch Gabriel in 1950.

5858 There were actually two Sabors for the election of Patriarch German and I participated in them.

5859 The first was opened and conducted by Metropolitan Joseph. I was present at the time the meeting was called or attempted to be called.

5860 The members of the Sabor got together.

5861 The Metropolitan made the statement that no quorum was present and ordered another date for election of the Patriarch. I know why there was less than a quorum in attendance.

5862 The candidate for Patriarch was Metropolitan Arsinije, who later died in jail, and the Religious Commission and Government were against his election. Because the Assembly did not obey the State Authorities ordered to throw out his name from the list of

candidates, the State Police gathered at the railroad station the civilian members of the Sabor, and took them to the building of the Clergy Association, told them not to appear at the Sabor, and this is why the Sabor was not held. After the death of Patriarch Gabriel, Patriarch Vicente was elected. (Counsel states that he is offering Dx. 21 and 21a and the offer of proof which is now closed. The Court refuses the offer of proof.)

DIONISIJE MILIVOJEVICH

Direct Examination (Continued)

5880 Archimandrite Mardary was not elected as bishop of the Russian Church. He went to Yugoslavia and was appointed administrator of the diocese in the
5881 name of the bishop of Ochrid, Nicolai, in 1922. Bishop Nicholai was administrator since he visited the diocese in 1920 when he received many blessings from the clergy and people of the diocese. In 1946 Bishop
5882 Nicholai came to this country on my affidavit and he subsequently died here. Father Mardary returned to Yugoslavia at the end of 1923 or beginning of 1924 and he was elected as supervisor of the monastic school in Rakovica where he remained until 1926. There were many applications from the United States
5883 for a bishop and he was elected bishop in 1926. Bishop
5884 Nicholai was the bishop-administrator of the diocese. Mardary helped the bishop. Mardary could only handle the inside administrative work, not the ordinations of priests or consecrations of churches. This is
5885 evidence in DX No. 36. Archimandrite Mardary sent out a communication in 1923 which is evidenced by DX 35. This letter bears his original signature.
5886 There was a conference of Serbian Orthodox priests

in Gary, Indiana on February 21, 1923 called by Archimandrite Mardary. The First Ecclesiastical Court
5887 of the diocese was elected at that time. DX 38 is a Russian document directed to Archimandrite Mardary who has notified them that he is administrator
5888 of the diocese. Bishop Nicholai resigned and Patriarch Dimitrius took administration of the diocese. Mardary stayed for one year, started to build the monastery of St. Sava and found great difficulties. He went to Yugoslavia and became superior of the monastic school in Rakovica until 1926 when he was elected as bishop. DX 39 is from Patriarch Dimi-
5893 trius to Archimandrite Mardary. DX 45 indicates there was a priest conference in Gary, Indiana in 1923.

5894 This is the first conference after establishing a Serbian diocese in 1921. But prior to that there were two conferences, in 1913 and in 1916, of Serbian priests.

DIONISIJE MILIVOJEVICH

Direct Examination (Continued)

5964 Archimandrite Mardary went back to Yugoslavia in 1924 and served for two years as supervisor of the Monastic School. He was elevated to the rank
5965 of Bishop thru an election by the Holy Assembly of Bishops and confirmation by the government of the Kingdom of the Serbs, Croats and Slovians. This was under the reign of King Alexander. I recognize defendant's exhibit 64A which is a confirmation of Bishop Mardary as Bishop of the American and Canadian Serbian Orthodox Diocese which I found in my search of the archives of that Diocese.

A Sabor was held on May 30th of 1927 at the Monastery of St. Sava at which a diocesan council was elected. Defendant's exhibit 47B is entitled "Minutes of the Serbian Orthodox Church National Assembly held May 29th, 1927 in Chicago." This was printed in the American Newspaper Daily Srbobran in Pittsburg.

I have examined defendant's exhibit 47B purporting to be the minutes of the first national assembly and exhibit 47 purporting to be the minutes of the first diocesan council meeting and there is contained a reference to by-laws but not the completed by-laws.

The completed by-laws were adopted on September 1st, 1927 at the Second Assembly. Defendant's exhibits 8, 9 and 10 are minutes of the September 1927 meeting. The constitution of the American Canadian Diocese was adopted by the National Assembly in September of '27. This is reflected in plaintiff's exhibit 104A. After passage the constitution was printed in Chicago and sent by special letter to the Holy Synod for approval. It was sent by Bishop Mardary as evidenced by DX 50 purporting to be the report to the Holy Synod dated October 7th, 1927 and signed by Bishop Mardary. DX51 and 51A was a communication from the Holy Synod in response to Bishop Mardary's forwarding to them the 1927 constitution. It is entitled "explanation of the Holy Episcopal Synod."

DX 51, a notice from the Synod to the American Diocese, contained a statement of policy reflecting the concern of the Holy Synod that granting of autonomy to a branch of the church must only be done when the guarantee of the right of approval of all

organizational changes remains with the Holy Synod.

From my examination of the archives of the diocese I was able to determine that the next National Assembly of the American Canadian Diocese was held in 1931.

And the next was held in 1938 after the death of Bishop Mardary. Bishop Damaskin was appointed in 1938 and he left at the end of 1939. I recognize DX65 addressed to me and dated December 22nd, 1961, a letter from Patriarch German in the same condition as I received it. The signature is that of Patriarch German and I know that signature.

This document contains the official seal of the Holy Bishops Synod. I believe that I am the only member of the Holy Bishops Assembly who was outside of Yugoslavia in 1961. I responded to the letter of Patriarch German, defendant's exhibit 65. Defendant's exhibit 66A dated March 18th, 1962 and addressed to his Holiness the President of the Holy Bishops Synod is a copy of that letter which I wrote to his Holiness in response to his letter of December 22nd. I recognize DX67A dated October 12th, 1954 signed by Patriarch Vikentije who was Patriarch before Patriarch German. This document contains the seal of the Holy Synod. DX68A is a copy of a letter dated December 28th, 1954 addressed to Patriarch Vikentije and the Holy Synod signed by me. In this letter I replied to his Holiness Patriarch Vikentije in his letter of October 12th. DX68 is a true and correct translation of 68A. The heading Serbian Orthodox Diocese for the United States of America and Canada, the Serbians Orthodox Monastery at St. Sava, Libertyville is not on a translation but was on the original. I recognize DX69A as a letter addressed to

Bishops Nikolai and Dionisije from the Holy Bishops Synod of the Serbian Orthodox Church in Belgrade
5997 dated May 25, and also May 12th 1948.

6003 I have examined DX70A a letter from the Holy Bishops Synod of Belgrade dated November 12, 1946 addressed to me from Patriarch Gabriel. I received this letter shortly after the date it bears. It bears the signature of the Patriarch Gabriel which I recognize. DX70 is a true and correct translation of this document.

6004 DX71A is a letter dated April 10, 1947 addressed to Patriarch Gabriel from me and 71 is a true and correct English copy.

When I was at the University of Belgrade I studied the philosophy of dialectic materialism. Dialectic materialism is a form of the atheistic communistic teach-
6005 ing of their principles. At that time I took a stand against this philosophy.

6006 I belonged to an organization at that time opposed to dialectic materialism or to the philosophy of communism.

6007 The organization was called Serbian Christian Unity. I believe there were more than two hundred chapters. From 1921 to 1930 I was president of that movement. I was succeeded as president by Bishop Nikolai.

DIONISIJE MILIVOJEVICH

Direct Examination (Continued)

6158 DX 77 and 77A is a letter addressed to Ecclesiastical Court of the American-Canadian Diocese which I found in the Archives (Dx 77 and 77A offered and
6161 admitted). DX 78 is a translation of the letter notifying ecclesiastical appointment of Bishop Irinej in 1936. (DX 78 and 78A are offered). DX 79 is a cor-
6172 rect English translation of DX 79A which I found in the Archives. (DX 79 and 79A are admitted).
6173-6174 (Offer of proof). Serbian Orthodox Christian
6175 Unity was approved by the church. The purpose of the organization was to defend the ethics of the church and the teachings of the church against some
6176 protestant groups and against the Communist teach-
6177 ings. It published a monthly periodical. DX 80A is our publication starting with January, 1926 and ending in 1928. Volumes were published for the period 1920 through 1930. This volume contains articles that
6178 I wrote against Communism. November and December 1927 there is an article about the Baptist Convention and an article on page 23 against a Communistic Periodical. It is canonically proper to take
6180 a stand against Communism in the Serbian Orthodox Church. My opinion is based upon the apostolic
6181 canons and all the other canons of the orthodox church. When I left Yugoslavia the government was that of King Peter II. He continued in power until
6182 1941 when the government was exiled and then the Communists came in 1945. Until 1945 I was paid by the royalist Yugoslav government in exile. I did not receive any income or salary from the Assembly or the Synod. Since that time I have not received any income or salary from the Assembly or Synod. I have
6184 received none from the government of Yugoslavia.
6185 There was a church people's assembly in 1960. DX 81A is a resolution adopted by that assembly. The
6186 assembly was attended by 150 delegates. The 1960
6198 resolution the church national assembly took a position with reference to Communism and also regarding

6199 the Macedonian church. In 1959 the Patriarch recognized the Macedonian church and a constitution which provided they may elect their own bishops and work autonomously with their own church. We did not
6201 recognize that in the United States. (Defendants offer DX 81 and 81A).

6202 There was a church national assembly in September, 1956. DX 82A is a true and correct copy of the resolution adopted by that assembly. This resolution was printed in newspapers but neither it nor the 1960 resolution were sent to Belgrade. (DX 82 and
6203 82A offered). There was a church national assembly
6204 in 1962 and DX 83A is the resolution adopted at that
6209 time. There was a church national assembly in 1948
6210 and DX 84A is the resolution taking a stand against the Communist regime in Yugoslavia. I don't know
6211 if this resolution was forwarded to the Holy Synod or Assembly. There was a church national assembly in 1944 in Chicago and DX 85A is a resolution condemning the Communist movement in Yugoslavia and in favor of the Chetnik movement of General Mihailo-
6212 vich. (85 and 85A are offered).

DX 86 is the August 7, 1947 issue of the Yugoslav-
6213 vian paper, *Struggle*, which is published by the Com-
6214 munist Party of Yugoslavia. My name is mentioned in this article. (Defense counsel underlines in ink).
6215 The article is the text of Marshal Tito's speech and conversation with a delegation of priests that visited
6216 Yugoslavia. DX 86A is an English translation of the Serbian wherein I am mentioned in the course of Marshal Tito's speech.

6218 DX 87 is the October 12, 1946 issue of the newspaper, *Struggle*. The first article on the page has the title "Bishop Synod Serbian Orthodox Church
6220 is Giving Support to the Traitor of Bishop Dionisije."

DX 87 is a translation of a portion of that article.

DX 88A is a copy of the daily newspaper *Politika*
6221 dated October 13, 1954 published in Belgrade, Yugo-
6224 slavia, under government supervision. DX 88 is an English translation of a portion of that article. The chairman of the Religious Affairs Committee was Mr. Radosavijevich at this time.

DX 89A is a handwritten letter from Patriarch Vi-
6225 kentije to me which I received shortly after January 4, 1952. (Counsel offers 89 (the translation) and 89A).

DX 90A is a letter addressed to me from Patriarch Gavrilo which I received in the latter part of 1948. DX 90 is a translation.

6227 DX 91A is the April 3, 1946 letter from Metropolitan Joseph to me and 91 is a translation (exhibits are offered).

6228 DX 92 is a memorandum to the President of the United States dated March 12, 1945. I wrote it with the President of the Serbian Federation and the President of the Serbian Defense Council. (Exhibit offered).

6229 DX 93 is an article about Bishop Varnava written
6231 in 1948. (Exhibit offered). DX 94 is a pamphlet regarding persecution of the church in Yugoslavia supplied in 1954 to the World Council of Churches. It was prepared by me and Bishop Nicholai. The World Council of Churches meeting is the same one that is mentioned in the newspaper article that ap-
6232 peared in *Politika* in October, 1954. DX 95 is a copy of the petition to the president dated July 9, 1945. (Exhibits 94 and 95 are offered).

6233 DX 96 was prepared for submission to the President and Secretary of State by myself, the President of the Serbian National Federation and the President of the Serbian National Defense Council.

DX 97 is a press release regarding persecution of the Serbian Orthodox Church in Yugoslavia under Tito which was prepared about August 6, 1954. It was published in some newspapers. (Exhibit offered). There was some priests in this country who were opposed to my opposition to the Communist regime in Yugoslavia. There were 7 priests, including Emilijan Glocar who is mentioned in the indictment. DX 98 is a copy of the decision of the Ecclesiastical Court of the diocese regarding Reverend Drenovac, one of these 7 priests. The decision of the court was forwarded to the Synod for confirmation. DX 99A is the approval of Drenovac's judgment by the Synod. DX 99 is a correct English translation. (Exhibits offered). DX 100 is the decision of the Ecclesiastical Court of the diocese concerning Reverend Drijbich. I presided at that court and the members included Dusan Shukletovich and Milan Brkich. This decision was forwarded to Belgrade and DX 101 is the Synod's decision confirming the judgment of the Ecclesiastical Court. 101 is a true and correct translation of 101A (Exhibits offered). DX 102 is a letter to the Department of Justice dated March 1, 1945 advising of the action taken against these two priests. During World War II and after World War II there was a publication called "Free Expression" published in Pittsburgh. It was published by a group of followers of the Stalinist line in Russia. Reverend Drenovac wrote several articles in that publication attacking us and defending Soviet Russia and Tito's regime. We made an investigation of this publication. DX 103 was prepared under my direction and supervision by Reverend Kozomara. It

has copies of the newspaper attached to it. In the copy of "Free Expression" dated January 5, 1944 Reverend Glocar at page 28 states that I will be destroyed as will all those who are against the people. DX 104 is a communication I received from the Synod. 104 is a correct translation. (Exhibits 104 and 104A are offered).

BISHOP DIONISIJE testified:

Direct Examination (Continued).

(Offer of Proof continuing). DX 110 A is a guide to subversive organizations published December 1, 1961. On page 20 it lists the newspaper "Free Expression" (Exhibit offered). DX 111 A purporting to be a declaration of the Serbian people is dated July 21, 1942. The seventh priest whose name I could not remember yesterday was Jovan Krajanovich. Reverend Drenovac was defrocked. Reverend Militich was also defrocked. Reverend Popovich, since he was silent and didn't work in the "Free Expression", we did not bother him. Reverend Popovich was a priest in the American-Canadian diocese until 1963 when he went over to Bishop Sava of the Eastern American Diocese. I believe he's serving in McKeesport, Pennsylvania under Bishop Sava. Reverend Kajanovich died soon after 1942. No action was taken against him because he did not participate in writing anything in the subversive newspaper "Free Expression." Reverend Gachinovich was defrocked. Reverend Glocar was defrocked. Reverend Vusijich died ten years ago or so. There was court action against him. He was defrocked and then he died. DX 112 A is a record of the Ecclesiastical Court proceedings against Father Jachinovich. 112 is a true

and correct translation (exhibits are offered). This decision was appealed to the Synod. DX 113 A is the
6308 decision of the Synod dated April 20, 1950 under the signature of Metropolitan Arsinije and 113 is a correct translation. (Exhibits are offered). DX 114
6309 A is a report of the subcommittee on immigration and naturalization entitled "Communist Activities Among Aliens and National Groups". There is an
6310 analysis on page 625 of the newspaper "Free Expression". This is the same paper we have been talking about. On page 27 the Nicholai Denenovac is the same person we have referred to as Father Drenovac. (114 A is offered). DX 115 A is a report
6312 I prepared and submitted to the Diocesan Council of the American-Canadian Diocese. 115 is a true and correct copy. (Exhibits offered). DX 81 C is
6313 a letter from Patriarch German to me dated October
6314 15, 1960 acknowledging receipt of the resolution which is DX 81 A. 81 B is a correct English trans-
6316 lation. (81 B and C are offered). (Defense Counsel
6317 states that he closes his offer of proof). Plaintiffs' counsel states that he will not cross-examine the
6318- witness with respect to the offer. Defense counsel
6319 states that the purpose of the offer is to show the real reason for the removal of Bishop Dionisije was his opposition to the government of Yugoslavia. The
6321 Court refuses the offer of proof. The Court states
6328 that exhibits offered in the offer of proof are refused.

6329 The first knowledge I had of the Damaskin dele-
6330 gation coming in 1962 was a private letter from Metropolitan Damaskin. I had not requested this delegation. I heard rumors about the delegation coming
6331 but I heard nothing official from the Synod. Later

on I had a letter from the Synod. DX 116 A is the letter from Damaskin and 116 is a correct translation (exhibit received).

6333 Metropolitan Damaskin and Bishop Nikanor arrived in the middle of September, 1962. I wrote Archimandrite Formilian to receive them in New York and I met them at the airport in Chicago. I knew only Metropolitan Damaskin, not Bishop Nika-
6334 nor. I had not seen him for 22 years. We held one meeting of the diocesan executive board to receive the delegation. Metropolitan Damaskin and Bishop
6335 Nikanor stayed at the monastery. Two or three days after they arrived they brought a letter from the Holy Synod which was addressed to me from Metro-
6336 politan Damaskin. It had been written by the Synod. DX 117 A is the letter dated August 5, 1962 to which I made reference. I believe I received this letter
6337 by mail and that Metropolitan Damaskin brought a
6340 copy also. (DX 117 A received in evidence). In March or April, 1962 we sent some proposals to the
6342 Patriarch about amending our constitution. One of these letters I mentioned contained a proposal for the election of two or three assistant bishops, to as-
6343 sist me. PX 73, an excerpt of the meeting of the Synod on June 12, 1962, refers to the purpose of the delegation to consider the elevation of the American-Canadian Diocese to the rank of Metropolitanate and the adding of a diocese of South America and South Africa as well as the election of two or three vicar bishops to myself. The delegation was to do other things that it found appropriate and necessary to do. After the delegation had had a few days rest at the monastery I started to discuss these various proposals with Damaskin and Nikanor.

I personally asked Metropolitan Damaskin whether there are any charges against me. He said "I have some letters against you." I said to him "Probably you will send it to me through the Holy Synod for my answer and if you send it to me, I will answer it." Then both of them agreed that they would send charges to me. If a charge had been made against me it was forwarded to me by the Holy Synod for me to answer. From 1946 when I started to oppose the Communist government in Yugoslavia, their groups in America sent charges against me. They sent 12 charges to Belgrade to Metropolitan Joseph against me. Prior to 1962 I received communications from the Holy Synod with reference to charges and I was requested to make an answer to those charges to the Synod. The first of these occurred around 1946. In 1940 some people complained to the Assembly about my being elected bishop but these matters were not sent to me. The first time I can recall getting a charge was in 1946. I was accused of dividing our people and being against Soviet Russia. DX 118 A is a letter written from the Synod dated October 6, 1946 signed by Metropolitan Joseph. This letter quotes a telegram from an organization in the United States accusing me. DX 119 A is the response I wrote on December 4, 1946. (DX 118, 118 A, 119 and 119 A are offered). (These exhibits are admitted).

I received DX 120 A, a letter dated November 1, 1946 from the Holy Synod. 120 is an accurate English translation. DX 121 A is the enclosure with that letter. 121 is a correct English translation. (DX 120, 120 A, 121 and 121 A are admitted in evidence.)

DX 122 A is my reply to DX 120 A. I inquired first

whether the complainant was a member of any church congregation and when I discovered that he was not a member but is a member of a Communist group I replied that his charge was political (exhibit offered). I received DX 123 A, a letter dated December 16, 1946 containing a communication of the Synod from the Montenegran Literary Society. I made a response to this charge in my letter, DX 124 A. (DX 123, 123 A, 124 and 124 A are admitted).

DX 125 A is a letter addressed to me from the Synod referring to a telegram from the United States. 125 is an English translation. I replied to this request. (DX 125, 125 A, 126 and 126 A are admitted).

DX 127 A is my reply to 126 A. The priest referred to in the second numbered paragraph was defrocked and his defrockment was approved by the Holy Synod. (127 and 127 A are admitted).

I received DX 128 A shortly after its date, February 8, 1948 and I recognize the signature as that of Patriarch Vikentije. This document refers to affiliating the American-Canadian Diocese with the World Council of Churches. I responded to this request. Patriarch German is the president of the World Council of Churches. (DX 128 and 128 A are admitted).

DX 129 A is a true and correct copy of the letter I sent to the Synod on April 10, 1958. (DX 129 and 129 A are offered). DX 130 A is a letter I received from the Synod signed by Metropolitan Joseph. I responded to this inquiry concerning attendance at the Catholic Club of Chicago. (DX 131 A is a copy of the enclosure, from the Minister of Foreign Affairs at the Federated People's Republic of Yugoslavia. This document bears the signature of Nichola

Alagich and the seal of the Synod. (130, 130 A, 131
6372 and 131 A are offered). In response to this request from the Minister of Foreign Affairs I got communications from both Metropolitan Joseph and Bishop
6773 Vikentije. DX 133 A is a copy of my letter to Metropolitan Joseph dated November 14, 1947. (DX 129
6377 through 133 are admitted).
6378 DX 134 A is a letter dated November 12, 1946
6379 which I received from Patriarch Gabriel. 134 is a correct English translation. DX 135 A is the enclosure referred to in 134 A, a transcript of a com-
6380 plaint by Ilija Vukmanovich. (DX 134, 134 A, 135 and 135 A are admitted). DX 136 A is a copy of my
6381 letter dated July 16, 1947 which I wrote in response to 134 A and 135 A. (136 and 136 A are offered).
6382 DX 137 A is a January 10, 1947 letter from Synod
6383 signed by Metropolitan Joseph. The four petitions which were enclosed were sent to me to report and return to them so I returned all of them and made a report. I do not have the four petitions any longer.
6384 137 is a true and correct English translation. DX 138 A is a letter dated July 15, 1947 from me to the
6485 Synod. This is a true and correct copy of my response to DX 137 A. The petitions are numbered in
6387 Exhibit 137 A. (DX 137, 137 A, 138 and 138 A are
6388 admitted). DX 139 A is a letter from the Synod over the signature of Bishop Vikentije dated October 10, 1947. I received this letter and it bears the signature
6389 of the bishop and the seal of the Synod. The letter remarks in closing that similar deliveries such as the petitions would be placed in the Archives and I will
6390 be notified about them. DX 140 A is a letter to me dated February 27, 1954 from the Synod and it bears the signature of Bishop Chrysostom. The Synod

6392 didn't ask for any reply so I did not make one. The enclosures which are referred to may be in the Ar-
6393 chives. I will look for them. The letter says "In ad-
6394 dition I send a copy of denunciation." From February 8, 1958 until September 1962 no further complaints were forwarded to me by the Synod or the Patriarch. The only thing I received was a warning of Patriarch German about not mixing in politics. I
6395 am referring to DX 65 A. The Synod did not advise
6396 me during those four years of any charges against me. My reply to Patriarch German's 1961 letter is
6398 DX 66A (Court admits DX 65, 65 A, 66 and 66 A).

I asked the Holy Synod to confirm rumors which we had in America that a delegation was coming and I sent them a letter in August. Finally they confirmed that the delegation was coming. After the bishops rested we began to discuss these problems.
6402 Damaskin and Nikanor said to me "We are not any investigating committee to investigate anything against you." They stayed in Libertyville all the
6403 time that they were not traveling around the United States. They left at the end of November or beginning of December. I accompanied them to some of the
6404 congregations; when they went to California I didn't. I went with them to Chicago, Cleveland, Gary and other places in the Middle West. I did not go to
6405 New York with them. They went to Canada.
6407 The people whom they contacted told me "They are looking for some accusations against you." I
6408 began to hear this from the first day of the delegation's arrival. First Metropolitan Damaskin told me there were some charges against me and he said that the charges would be sent to me for my answer. Our priests and some reliable laymen made me aware that the delegation was investigating or questioning

people. Reverend Branko Kovacevich had a very sharp conversation with Metropolitan Damaskin in Cleveland. In the monastery after dinner time I had a conversation with Father Petrovich who accompanied the delegation. It was about at the middle of their visit. Reverend Balach, Mr. Filipovich, his wife and Mr. Vidakovich was present when Father Petrovich said "We have a full bushel of complaints against the Bishop Dionisije, adding to that bushel which we are collecting in here in America." I had a conversation with the delegation and said to them "You received some charges against me, I want you to send it to me for my reply." They promised to send them. This last conversation was at the end of November when he had the second diocesan council meeting with them. Both bishops were present but I talked with Metropolitan Damaskin as the head of the delegation. Bishop Damaskin at that time nor at any time furnished me with copies of any of the charges. After Metropolitan Damaskin, Bishop Nikanor and Father Petrovich returned to Yugoslavia. They never sent me copies of any of the complaints or charges which they obtained in the United States. Metropolitan Damiskin never sent me a copy of his report to the Synod. PX 84 E, my letter to the Synod dated April 19, 1963, requests them to send the entire basketful of complaints against me. I never got a response to that letter.

One of the purposes of the delegation was to consider the elevation of the American-Canadian Diocese to a Metropolitanate. This had been recommended to the Holy Synod by Damaskin in 1938. I also recommended this. I recall when Patriarch German was here for a month. The conversation with I have a conversation with him with reference to

complaints against me in Belgrade. Patriarch German were here for a month. The conversation with Bishop German took place in my office in Libertyville in the presence of the secretary of the diocese and Dr. Glumac. He told me there was a complaint by some lawyer and I asked him to send it to me for my reply and he said to me "Don't worry about it." He said the complaint was in the files of the Synod. The lawyer was Dusan Silaski, former legal adviser to the diocese. He said "Don't worry about that; it is nothing."

I organized a special fund for the expenses of the 1962 delegation. While they were here they visited The Yugoslav consulate in Chicago and one or two times the Yugoslav Embassy in Washington. Since the end of World War II I have not maintained any relationship with the Yugoslav Consulate in Chicago. I have had no contact with the Yugoslav Embassy in Washington. The delegation told me they were going to the consulate in Chicago and asked secretary Balach to take them by car. I told my secretary to take them before the consulate and not to go inside. They went to Washington from New York.

From the time I came here in 1940 until May 10, 1963 neither I, the diocesan council of the church national assembly or anybody, requested the Holy Synod to divide this diocese into three dioceses. First knowledge I had of the division of the diocese was on May 21 when I received the Synod's decision of May, 1963. PX 84 C is the first communication I had.

I received a letter which appears at page 50 of PX (6426- 84. (Lengthy argument regarding production of 6458) documents). Copies of the letter which I received were sent to the diocesan council, Ecclesiastical

Court and the church national assembly. The letter from the Synod dated May 17, 1963 is addressed to me as bishop of the Middle Western American Diocase. (Counsel for plaintiff states that page 50 of PX 84 is in evidence as 84 A). DX 141 A is a letter dated July 30, 1962 sent to Patriarch German and 141 is a true and correct English translation.

At the diocesan plenum in February, 1962, we decided to send the delegation to Belgrade to explain our diocesan needs and three members were chosen as delegates, Reverend Brkich, Nich Stepanovich and Mr. Maravich. I wrote the Patriarch and the Synod that the delegation was coming. Patriarch answered and said that he would not accept the delegation without me. I thought to go with the delegation but the diocesan board recommended that I do not go. I intended to go but I had a fear because Tito's government declared me a traitor of Yugoslavia. When this was brought before the diocesan council they said "You should not go and shall not go."

(DX 141 and 141 A are admitted in evidence.)

DX 142A is the letter dated April 20, 1962 from the Patriarch. PX 84 I is the letter from me to the Patriarch dated February 13, 1962. DX 142 is the letter I received from the Patriarch requesting that I attend. I received DX 143A, a letter from the Patriarch dated March 2, 1962. 143 is an English translation. 143 is the first letter I received in response to my letter of February 13. (142, 142A, 143 and 143 A are admitted in evidence). DX 144A is my letter dated March 20 to the Synod. 144 is the English translation. (144 and 144A are admitted). DX 145A, dated March 27, 1962, was written by Metropolitan Damaskin to me and 145 is a correct English translation. (145 and 145A are admitted). DX 146A, a

letter to me from the Synod dated May 9, 1962, was received shortly after its date and 146 is a true and correct English translation. (DX 146 and 146A are received in evidence). DX 147A is my letter to the Synod dated May 23, 1962 and 147 is a true and correct English translation. (Exhibits admitted). The Patriarch indicated that they would not receive a delegation unless I headed it. Reverend Brkich had already left because he intended to see his father somewhere in the village. Mr. Stepanovich and Mr. Maravich did not go. Reverend Brkich, who had already left for Europe, did visit the Patriarch and he wrote me two letters from Belgrade.

(DX 148, pages 30, 31 and 32 of PX 84 are admitted in evidence).

DX 148 is the two reports Father Brkich sent me.

DX 149A is addressed to "His Grace Bishop of the Mid Western American Diocese, Lord Dionisije, Libertyville" is the first letter I received concerning the division of the American-Canadian Diocese into three new dioceses. DX 149 is a true and correct English translation. (DX 149 and 149A are admitted in evidence). I received PX 3D, dated May 10, 1963, after I received DX 149. The May 17 letter came before the May 10 letter. Before receiving this letter I had not had any communication from the Synod or the Assembly requesting me to accept a transfer from my duties as bishop of the American-Canadian Diocese to the office of bishop of the Mid West American Diocese. It is the rule of our church to ask a bishop prior to removal from one diocese to another whether he will accept it or not. Bishop Visarion made reference when he testified to the usual custom to ask a bishop to accept a new appointment. Article 217 of the constitution of the Serbian Orthodox

Church deals with transfers of bishops. Article 216, subparagraph A-4, and Article 217 of the Serbian
6506 Orthodox Church constitution (PX 68) refer to transfers of bishops as penalties. Article 57 of the penal code, PX 69, deals with the transfer of a bishop from one place to another as a penalty. Article 111 of the constitution, with which I am familiar, pro-
6507 vides for the removal of a diocesan bishop only by canonical verdict. At the time I received the May 10 and May 17 letters I was familiar with Articles 216 and 217 and 111 of the Serbian Church constitution and Article 55 of penal code.

6508 Because I noticed that the decisions in the two letters were a violation of the constitution of the Serbian Orthodox Church I refused to accept the deci-
6509 sions. I wrote a letter on or about June 3, 1963 to
6510 the Synod and the Assembly. PX 84B, pages 60, 61 and 62 of PX 84, is the letter I wrote to the Synod and Assembly. The first thing I did following receipt of these two letters, May 10 and May 17, was to call
6511 a meeting of the Diocesan council. The meeting was held on June 6, 1963. After the meeting of the council on June 6 a telegram was sent to the Holy Bishops' Synod. PX 15 is a copy of that telegram dated June 9, 1963.

6512 I opened that meeting on June 6 and the vice presi-
6513 dent presided. In my 24 years as a bishop I have not been aware of any action by the Synod suspending
6514 and transferring a bishop to another diocese. No
6515 reply was received to the telegram. I did not receive a reply to my June 3 letter. I did not receive a letter similar to PX 13. I did not receive any communication directly from the Synod with reference to the fact that an investigating committee had been

appointed, only copies from their appointed administrators. The letters were not addressed to me. When
6516 the investigating commission arrived in the United States they wrote me a letter requesting a meeting. I said to them I could not accept them in the monastery but in a nice restaurant in the hope that we
6517 would have dinner together. We went to the Rustic Manor in Gurnee. Fourth of July is our greatest celebration at the monastery. Usually four to six thousand people attend. We have Holy Liturgy and then go down to the picnic ground for program,
6518 speeches, singing, drinking and rejoicing. We barbeque lambs and pigs. Close to our monastery is a children's camp building and then close to the Des Plaines River is a large hall for the people if it rains. We serve beer and Coca Cola.

6519 East of Route 63 is the children's camp building, the church and the cemetery. Our residence is lo-
6520 cated on the west side of Route 63 and it consists of a big frame building to which some smaller parcels have been added. I believe that King Peter was one of the guests attending this particular Fourth of July
6521 celebration. The residence is my headquarters and it has offices of the secretary and abbot of the monastery. There are some small homes for meetings, reception hall and kitchen. Originally this was a farm building. Besides my apartment it has three bedrooms.

Bishops Chrysostom and Visarion arrived around 9:30 in the morning on July 5. They had two or three assistants but the assistants did not come with them.
6522 Somebody brought them from Chicago by car. I was there and the diocesan council was there when they arrived. Seven to 10 members of the diocesan coun-

cil, including our legal adviser, Mr. Stepanovich,
6523 were there. Dr. Sever and Mr. Maravich were there. Several priests, Jovan Marcetich, Reverend Radonovich, and Reverend Dimitrijevich were there. There were about four or five priests. There were some laymen including Mr. Milos Vidakovich. The investigating committee came inside my residence and I
6524 extended greetings to them in the residence. Bishops greet each other by kissing each other on the cheeks. That is how I greeted both these bishops. I told them I could not accept them in the diocesan headquarters because there was not a good space available and that I was afraid our people might make some bad approaches to them. I believe there were some other people on the grounds at that time.
6525 I told them that I would take them to a nice restaurant that we might have dinner together. They said "All right". Mr. Stepanovich and I made arrangements but they refused to have dinner with us. We went to the Rustic Manor in Gurnee by car.
6526 We had one of the smaller rooms for separate parties. I thought to order some juice or something to
6527 drink first and they said "No, we have business first."

They said to me "We came as investigating committee." I said to them "Did you bring the charges with you against me, to present to me for my answer?" They said "We did not, but we want to take your statement in writing before us." I said to them "Listen, I could not say anything before I receive
6528 the charges against me that you investigate." Bishop Visarion was the president and Bishop Chrysostom was the scribe. My conversation was primarily with Bishop Visarion. I asked him "Did you bring me

accusations that I may answer them as is the rule and regulation of our church?" They said "We did not." I said to him "Listen, you impose two penalties upon me already; one penalty for forbiddance, another penalty is removal from diocese; two penalties, without any investigation. So then you could allow me, I would not answer any question until you give me charges for my answer, which I am entitled to have according to our penal code." He said to me "We didn't bring it." Then I said to them "You
6529 may write down what you want; I will not sign." Bishop Chrysostom was taking notes. There wasn't any further conversation between us at that time. Two or three times our legal adviser came over but they said to him "You go out because the bishop, we have to confer with himself."

One of the bishops mentioned to me my bishop's oath. I said to him "My bishop's oath is given to King Peter and the Holy Canons first, and then to the Holy Bishops' Synod wherein is justice. I wrote oath by my hand in old Slavic language, because I was a teacher; I wrote Slavic language in school sometime." Then I said to them "Regarding my oath, that is not a complete subordination without any rights; my subordination is conditional first to the State of Yugoslavia, to the King, then to the Holy Canons, then to the Holy Bishops Assembly when they do justice, canonical rights." They said to me "Never mind, never mind, we have a right." Then I said to them "Don't be like those men who sit powerful in the chair and make the power and rules which you hold. We had that through our history many times but we opposed that." They they finished and we went out. Bishop Chrysostom wrote

something which he showed to me and I said to him "Listen, I will not sign anything until I get charges which I am entitled to have for my response." During the course of the conversation the bishops did not indicate what the nature of the charges were or try to expalin what the charges were against me. I
6531 asked the commission this "You have a letter from the Holy Synod to come in here to ordain Bishop Stefan Lastivica for Eastern Diocese that is dated June 8, and on June 13 later on just with that other duty, you have to investigate me. But your first intention is to establish your own rule—means which you were ordered over there, without any investigation of our people or me either. So then I could not recognize that kind of investigation." I received a copy of a letter of June 8 that they were to consecrate Bishop Stefan. I cannot tell you when I got it. We heard some rumors about the consecration. There
6532 was no discussion about their going to consecrate Bishop Stefan.

We got up to go out and we went together to meet the priests and the people who awaited us in another
6533 room. Then different persons began to ask them questions. Bishop Visarion responded to the questions. He told the people "We have a right to do it and we came rightfully." The priests asked them about the condition of the church over there and how it happened that they were not sent before the suspension and before my removal to the Western dio-
6534 cese. The Bishop Visarion said "That's our right; we had that right." Some people said to them "You are sent by religious committee." They denied that.

Before we left I asked Bishop Chrysostom privately "Why you cannot remain here in America with me and throw away Tito passport and be together

with me here." I did this because he was a friend of mine from long ago. He said he could not do it and I said "Alright, then you go over there to Tito's
6535 hell." I heard that after leaving the Rustic Manor they went to Milwaukee where they issued a declara-
6536 tion on July 6th against me. PX 17 is the communique that they issued and it is contrary to their assignment because they first had to submit their find-
6537 ings to the Holy Synod. In my opinion, based upon my experience as a bishop, my training in canon law and familiarity with the constitutions of the church, the diocese and the penal code this communique was not proper. The assignment from the Synod was to come and investigate and to submit a report. This they did not do. They issued a communique condemning me and they did not have that right. Neither
6538 Bishop Visarion or Chrysostom attempted while I was before them to have a hearing and call in witnesses and to take any testimony. They did not give me the names of the persons who purportedly made
6539 charges against me. They refused to give me the charges. They said that they did not bring the
6540 charges from Belgrade.

VERBATIM TESTIMONY

[6540] Q. What, if anything, did they ask you, did they or either one of them ask you to do at the time you met with them in this room in the Rustic Manor? What specifically did they ask you to do?

A. Yes; they ask me why I am not submitting to the decision of the Holy Bishops Assembly.

I said, "Because it is un-Canonical and against
[6541] our Church rules, regulations and By-Laws."

Mr. Holmquist: All right.

The Court: Now, who asked him that question?

Mr. Holmquist: Q. Who asked you that question?

A. Visarion.

Q. As I understand it, that, in effect, ended your meeting; is that correct?

A. Yes.

Q. Did they offer at that time to continue the matter to a later time and submit the charges to you?

A. They did not.

Q. Did they indicate at that time they were going to continue the hearing to some other date and take testimony from various witnesses, and so forth?

A. They didn't say that.

Q. Did they indicate whether or not they were going to contact the Holy Synod and request the charges, as you had requested at that time?

A. They said they don't need to conduct any witnesses; my refusal to answer to them, that's enough.

ABSTRACTED TESTIMONY RESUMED

They asked me why I was not submitting to the decision of the Assembly and I said "because it is uncanonical and against our church rules, regulations and by-laws." Visarion asked me this question. They did not offer at that time to continue the matter and submit the charges to me. They did not say that they were going to continue the hearing to another date and take testimony.

6544 I did not have an attitude of complete indifference or ignoring toward the investigating commission. I
6545 did not do any laughing or joking toward them. I did not mistreat etiher Bishop Visarion or Bishop
6546 Chrysostom. Neither bishop at the July 5 meeting told me that they had oral instructions apart from

the written directive from the Synod. Many of our people refused to recognize the proclamation from
6547 Milwaukee. Some priests and others followed the proclamation. During the July 5 meeting the bishops complained about my circular against the decisions of the Assembly and I said "It was my duty to defend my people and the rights of the diocese." They
6548 had my proclamation of May 27 with them. PX 74 dated May 25, 1963 is that proclamation.

After I saw the proclamation of July 6th by Bishops Visarion and Chrysostom I made a complaint to the Synod against the investigating committee, PX 84 pages 70 and 71. (Counsel marks pages 70 and 71 as DX 150 and offer it in evidence). (DX 150 is ad-
6553 mitted in evidence). On July 13, 1963 I also pre-
6554 pared a letter to Bishops Chrysostom and Visarion which is on page 72 of PX 84. I did not receive any reply to my letter to the Synod dated July 11, 1963. I did not receive any reply to my July 13 letter to the two bishops. The bishops, after the initial meet-
6555 ing of July 5, did not contact me before they returned to Belgrade. Father Branko Kusonich telephoned me from Cleveland, Ohio. He said that Protodeacon
6563 Tripkovich had given him some suggestions. Father Branko said to me that if I accept the decision of the Synod the charges against me would be dropped. I
6564 said to him "Listen, my dear Father Branko, they impose upon me two penalties already, and the investigating committee proclaimed me unworthy bishop, to be defrocked already by their declaration of July 6 in Milwaukee, how could I accept any proposal by an official, particularly single person, if that proposal is not coming from the Patriarch or Holy Synod?" Other than that conversation nobody from
6565 the investigating committee contacted me. The in-

vestigating committee never sent me a copy of their report. In 1962 Metropolitan Damaskin told me that if I would make peace with the Yugoslav Consul General or Embassy all charges would be dropped. The investigating committee of 1963 did not furnish
6566 me with a copy of their report. I did not see a copy
6567 of the report they made to the Holy Synod. The Court admits DX 151, page 72 of PX 84.

6569 (Counsel marks DX 152, the English of PX 196. Counsel stipulate that the first time PX 196, the Serbian copy of the report of the investigating commission dated July 20, 1963 was seen by Defendants was a week ago last Friday when it was produced by
6570 Bishop Firmilian.) Prior to the Assembly of Bishops meeting on July 26, 1963 I did not get a communication requesting that I attend. From 1940 to 1963 I was formerly advised by letter of all regular
6571 and special meetings of the Assembly of Bishops. Nobody ever asked me to meet Bishop Chrysostom after July 5, 1963. Indirectly, from the German bishops, I got a notification of the decision of the Holy Bishops' Assembly. DX 9, a letter from the Synod to Archimandrite Firmilian dated July 29,
6572 1963, is a copy of the letter that I got from the German bishops. On July 27 the Assembly purported to discharge me from my duty as bishop and to declare the Midwest American Diocese vacant. I had no notification in advance about the July 26 and 27
6573 meetings of the Assembly. I had not received any of the charges against me. Before July 27, 1963 I had not been furnished with any written indictment against me.

I received PX 16A, the indictment at the end of October, 1963. It consists of 37 or 38 pages in typing.
6574 There were no enclosure or attachments to that document. I wrote asking for the charges and empowered three priests to copy those charges and send them to me. PX 19 is the letter from me to the Synod dated November 18, 1963. I had an accident with my car,
6575 damaging my car more than me, but I had my back damaged so I needed a little rest. I was willing to answer this if they gave me the proper time and documents which I could answer. Their reply allowed me only two months more, forgetting that this is a large document and hundreds of witnesses had to
6576 be obtained. I did not have the time to answer all of
6577 this in two months. DX 20A is the letter I received from the Synod. PX 84V is my letter to the Synod
6578 dated January 13, 1964. I also sent a telegram. Since I saw that it was useless for further correspondence I sent the indictment back and entrusted myself to God for my future. That is in my letter of January 25, 1964. To the present time I have not received any charges against me. I heard that the enclosures to the indictment were delivered to court by Bishop
6579 Visarion. I have not seen those enclosures nor read them. I did not receive an invitation to attend the March 5, 1964 meeting of the Holy Assembly. I was not asked by the Holy Assembly to send any representatives or any witnesses to that meeting on March
6580 5, 1964. I had no foreknowledge that a meeting of the Assembly was going to be held on March 5, 1964. I was never formally sent a copy of the judgment and I first saw it some time after Easter. The first knowledge I had that I had been defrocked I received some time after March 5, 1964 and I never received a formal communication directly from the Synod or the Assembly.

DIONISIJE MILIVOJEVICH testified as follows:

Direct Examination continued.

6654 At the time I was asked to become Bishop of the American and Canadian Diocese, there was a procedure that was followed with reference to my ap-
6656 pointment. First, Patriarch Gabriel called me and asked whether I wanted to accept the nomination for Bishop of the United States of America and Canada.
6657 At that time I was already Vicar Bishop assigned to the Patriarch. I told them I would go anywhere as a missionary of our church. The second stage concerns the ceremony where the deacon proclaims "The Holy Archibishops' Synod elected you as a Bishop of the United States of America and Canada and the Royal Deputies confirm that. Will you accept it?" The official answer given is "Yes, I will accept."
6658 This occurs on the evening before the elevation as diocesan bishop. After I arrived in New York I went to Washington and extended my greetings to the Royal Yugoslavian Ambassador in Washington and then I came to Chicago. Upon my arrival here I was met by the Royal Yugoslav Government Consul in
6659 Chicago. Thereafter, I arranged to meet with the diocesan council of the American-Canadian Diocese and was accompanied at that time by His Grace Bishop Firmilian. That Diocesan Council meeting took place in Chicago.

When I first came to the United States I received my salary from the royal Yugoslav government through the royal Yugoslav embassy in Washington, D.C. I received a salary as Vicar Bishop in Yugo-
6669 slavia before I came to this country and that was paid by the Yugoslav government. I received my salary as Bishop of the American-Canadian Diocese

from the royal government until the beginning of 1945 when Tito's government came to power. The royal government was in exile in London during the war. I have not received any salary or income from
6670 the Tito government in Yugoslavia. I have never been offered any salary by the Yugoslav government under Tito. I have not received any portion of my income or salary from the Patriarchate since I have come to the United States in 1940.

From 1945 I received my salary from the Diocesan Council, paid by the Diocesan Council treasurer. The
6671 Patriarchate in Belgrade has not contributed any money toward the maintenance of the American-Canadian Diocese since I became bishop in 1940. They have asked from us contributions to them and we have given contributions. It was on a voluntary basis and it came both from individuals and various parishes. The diocese would forward the money collected to the Patriarchate. The Diocesan Council also made some direct contributions to Belgrade in the years 1940 through 1963 out of the general funds.
6673 I am not familiar with the translation of the indictment, PX 16, since I returned the copy of the Serbian indictment to the Holy Synod at the end of 1963.
6675 Johann Dutchich, mentioned on page 2 of PX 16,
6676 was a poet and ambassador of the Kingdom of Yugoslavia to Rumania during the year and he came to the United States, I believe, around 1940 and died in
6677 1942. PX 153 is a copy of the Almanac of the Serbian
6678 National Federation in 1944. I am mistaken, he died in 1943. A picture of him lying in his casket indicates he died in April 1943.
6679 I know a Priest Dushan Popovich who first came to the United States in 1951 or 1952. I recognize the

signature on DX 154A from Reverend Popovich sent from Germany and dated August 8, 1950. (DX 154
6680 and 154A are offered and admitted with no objec-
6681 tion.) 154 is a true and correct English translation of 154A. I made the necessary arrangements to bring Dushan Popovich to the United States and I accepted him as a priest in my diocese. The first time he came to the United States was in 1951, about one year
6682 after he wrote the letter. He arrived in the United
6684 States some eight or nine years after the death of Johann Dutchich. I never appeared at a gathering in Gary, Indiana with Dushan Popovich and Johann Dutchich because that would have been impossible, one of them was dead nine years before. I do not recall ever appearing at a gathering in Gary, Indiana with Johann Dutchich.

6685 I see on the bottom of page 2 and the top of page three of PX 16 a refrence to a newspaper called the
6686 *Serbian Independence* and an article entitled the Black Dionisije. I have heard that he paper was written in Rome, Italy and sent to the United States. I know Dobroslav Javdjevich. I have met him on several occasions in the United States and he is a lay person, not a priest. His headquarters was Rome,
6689 Italy. I heard that he died. It may have been several years ago. These charges at the bottom of page two and the top of page three are false. This man was a colloborator of Italian fascists and we attacked him many times. Even Churchill attacked him. We said we didn't want any such collaborators among us. (Mr. Holmquist makes the statement for the record that with reference to all these charges about an article in the *Serbian Independence* there is no place, time, names or exact citation of anything with reference to these charges.) I did not at any time ask

6695 Father Dosgitch to go to a Mexican brothel to find me a prostitute as is recited on page three of the indictment. The Dusan Popovich to which this charge is accredited is the same one who is priest in Chicago at Holy Resurrection Church.

6696 I have heard that Dusan Popovich is still alive but very sick. I think he is still a priest of that parish. He is a follower of Bishop Firmilian.

The charge at the bottom of page three and the top of page 4 of the indictment that I attacked and raped some women in St. Paul is false. I know Rev. Ljubi-
6697 sav Djurich who made that charge. I believe I brought him to this country in 1952 and I think he
6698 was a priest before he came here. I arranged to place him in a parish in St. Paul, Minnesota and I had occasion to visit his parish. I did not at any time while visiting his parish ask him to get a young woman to spend the night with me. I was not in St. Paul, Minnesota on the day before Trinity Day in 1953 as charged in page four of the indictment. PX
6699 157, a church calendar, indicates that Trinity Day 1953 was May 24.

6702 (Counsel stipulates that Holy Trinity Day in 1953 was May 24). DX 155A is a letter addressed to me from the St. Nicholas Church in Steeltown, Pennsylvania requesting that I attend their fiftieth anniversary on May 24, 1953. DX 155 is a true and correct translation. DX 156A is a copy of the letter
6704 from me to that church sent on April 17, 1953. DX 156 is a true and correct translation. (The Court admits DX 155, 155A, 156 and 156A).

6705 I attended that fiftieth anniversary celebration. I think I went there by train. I did not fly so I went by train or car. I would have driven there or taken the
6706 train the day before, May 23rd. DX 158 is the souve-

nir booklet I received when I was there. It has been kept in my library. (The Court admit Exhibit DX
6707 157 and 158). (Counsel for plaintiff stipulates that there was a celebration on that date and counsel for defendant withdraws DX 158). On the 23rd of May
6709 I was traveling to Steeltown, Pennsylvania, which is very close to Harrisburg. I spent Trinity Day in Steeltown, Pennsylvania.

6710 (Defense counsel refers to the next charge on page 4 of the indictment beginning "since Bishop Dionisije could go so far"; counsel notes that no place is mentioned in the indictment but the enclosure, DX 58A, indicates that the conversation took place in the Diocesan headquarters at Libertyville, on April 5, 1962.) I have no recollection of meeting Rev. Milin-
6711 kovich at the diocesan headquarters on April 5, 1962. I did not arrange for Evelyn Petrovich to accompany me to California. I did not take a girl by the name of Evelyn Petrovich to California or any other place. Evelyn Petrovich I have seen one or two times in Indianapolis where she is a member of that parish. Rev. Milinkovich was a parish priest in 1962 in Indianapolis. He came here from Greece with some of his friends and I ordained him and appointed him
6712 to Indianapolis. In 1962 some charges started against him and I sent an investigator, Rev. Brkich, who submitted a report that he should be removed from
6713 Indianapolis. In 1963 I believe he chose to follow
6714 Bishop Firmilian and the church parish expelled him. It was at the request of the parishioners from Indianapolis that I sent an investigator. The investigator was a member of the Ecclesiastical Court and Vicar
6715 General of the Western district of our diocese. Father Brkich submitted a written report — DX 159A, and dated September 19, 1962. I recognize

Father Brkich's signature on this exhibit. DX 159
6716 is a true and correct English translation. This report refers to the same priest referred to in the in-
6717 dictment on page 4. There was nothing enclosed with this letter, DX 159A, and it is the complete report
6718 submitted to me. I could be mistaken because there were witnesses and I have that material in my file. I can locate the material.

The Rev. Djurich mentioned on page 4 of the indictment was the priest in St. Paul in 1953. He re-
6720 mained there until 1958 when there were charges against him by the church congregation and we sent a committee to investigate. The parish relieved him of his duties by vote of the members of the parish.
6721 The president advised me of his removal and ouster. DX 160A is the letter I received advising me of the removal of Rev. Djurich. DX 160 is a true English translation. (DX 160 and 160A received in evidence.)

6723 The charge in the last paragraph on page 4 about a beautiful lady is a complete lie. The charge on page 5 about a prostitute in the biggest hotel in Cleveland is false. I don't know where a nightclub is in the
6724 Hotel Cleveland. The next paragraph by archpriest Prostran is false. I first heard from him when he was in a camp in Italy and he came to the United
6725 States where we placed him in Joliet as parish priest. I believe he died long ago, six or seven years ago. He was parish priest in Joliet at the time this controversy began in 1963. This priest was not loyal to me
6727 prior to the controversy of 1963.

6728 The charges attributed to Myomir Dubak are false. He was our priest but affiliated with the Roman Catholic Church in Italy. Our Ecclesiastical Court investigated it and he started to write some letters against orthodoxy so he was defrocked. He was defrocked

by the Ecclesiastical Court of diocese and this defrockment was confirmed by the Holy Synod. (Counsel stipulate that the priest was defrocked and that defrockment is referred to in PX 161 for identification. The Court receives PX 161 and 161A in evidence). The letter dated September 6, 1961 to all church congregations announces the judgment against certain clergy, one of whom is Rev. Dubak. This is the same Dubak mentioned in the indictment. (The witness is directed to look at page 5 of PX 16A, the quotation which begins "but, it could not be expected that taking in family sanctity . . ."). I have compared the quotation in Exhibit No. 16A with a quotation in DX 161C on page 2. The only difference between the quotations is one is signed Dr. Silasky and the other is signed Silaksy. 161A is a true and correct English translation of 161C. Dusan Silasky was legal adviser to the diocese until 1948. He wrote some articles derogatory to me after 1948 and said he would send a charge to the Synod. Patriarch German was in the United States in 1951. At that time he was secretary of the Holy Synod and I had a conversation with him regarding the charges submitted by Dusan Silasky. Patriarch German told me that Mr. Silasky had sent a large charge with several leaves of pages and they decided to keep it in their files and not to send it. I asked him why he didn't send it to me for my answer and he said don't worry about it. This is the same Dusan Silasky who was quoted in these documents. Dusan Silasky died in 1951 or 1952. (DX 161, 161A, 161B and 161C are admitted without objection.)

The paragraph of the indictment on page 5 beginning "what Bishop Dionisije is outside of residence" is false. I have read the paragraph starting on the

next page and the one that follows after it. The allegations are completely false. Vladimir Milinkovich was abbot of the monastery and lived in our monastery until 1962. He submitted an application and returned to Yugoslavia. I never chased him out of the monastery. I received DX 162, letter dated June 2, 1961, from Abbot Milinkovich. I recognize his signature. He was 80 years old at the time and he did return to Yugoslavia where he died. (Court admits 162A and the translation 162). DX 163A is the decision releasing Abbot Milinkovich from his duties given over my signature June 6, 1961. 163 is a true and correct English translation. (DX 163 and 163A are admitted.)

I made a statement similar to those quoted on page 6 of the indictment, but this was before Droboslav Jevjevich, not Dusan Popovich. He said to me "we have to cut your legs and you should not travel so much" and my answer to him was "Tito wants to cut my head, he wants to cut my legs, somebody wants to cut me something else. Who knows what?"

I am ashamed at the Holy Synod would believe that I said the statement in the next paragraph. I never said that. (Defense counsel notes that no time and place are mentioned on page 6 of the indictment but that the enclosure, 164, 164A, 164B, and 164C indicate a date of May 30, 1962.) (The Court admitted 164, 164A, 164B and 164C). I do not recall making the statement in the Slovanian Hall in Waukegan quoted at the bottom of page 5 of PX 16. (Defense counsel notes for the Court that the statement comes from the unsigned enclosure, DX 61).

I did not make the two statements quoted at the top of page 7 of the indictment. I did not make the statement about buttocks which is in the next para-

graph, page 7, before a lady. I never made the next statement about being a live person.

The next paragraph which refers to Dusan Silasky refers to the same man who was the lawyer that died in 1951 or 1952.

He died sometime after 1948 when he was discharged in 1952. I know the circumstances of his discharge as legal counsel. He became legal adviser
6751 for the Council of General Tito's government in New York and we did not like that. He was replaced by the present legal adviser, Mr. Nick Stapanovich. He started to write against me after he was discharged.

MILAN D. BRKICH, (called on behalf of the Defendant) testified as follows:

Direct Examination.

6754 My name is Milan Brkich and I live in Joliet, Illinois. I am the parish priest at St. George Serbian Orthodox Church and have been there since Septem-
6755 ber 1, 1969. Prior to that, I worked in the diocese office in Chicago. I had the title of secretary to the church council of the United States of America and
6756 Canada and secretary to Bishop Firmilian. This large church council is made up of the council of each individual diocese and the Bishops and the three
6757 vicor generals. Each of the councils at the diocese level is made up of members selected at an annual meeting and each council consists of two priests and three laymen. The general church council consists of a total of 21 members. The church council of the whole United States of America and Canada uses the constitution of the former diocese. The church council was set by the peoples assembly held in Detroit

in 1964 which provided temporary provisions for
6759 such a body. There is no provision in the constitu-
6760 tion for such a body. The assembly or Sabor in 1964 which authorized the organization of the council was made up of clergy and church congregations and the three Bishops. The three Bishops are Firmilian, Gregory and Stefan, although he has since died and been replaced by Bishop Sava.

6768 These are the three dioceses that participated in the Sabor in Detroit in 1964. They are autonomous in internal affairs as far as the administration is concerned. Each Bishop has jurisdiction only within
6769 his diocese. I have examined DX 165A, 166A, 167A and 168A which are four issues of the newspaper
6770 called the American Srbobran and can state that the articles in them were written by me upon my return from a trip to Yugoslavia in the year 1962. The articles deal with what I saw and witnessed while there, including visits to various churches throughout Yugoslavia and my audience with the Patriarch. I don't believe the articles contained references to the
6781 conversations with the Patriarch. The proclamation that was issued by Bishop Vasarion and Bishop Chrisostom on July 6, 1963, was drafted and pre-
6782 pared in my parish in Milwaukee. I took no part in the preparation. I first became acquainted with Father Dushan Vavich in 1949 when I sent him affidavits to bring displaced persons to the states. I had
6783 not known him prior to that. When he arrived in this country, I found work for him in Milwaukee. I heard after his arrival that he had finished the Theo-
6784 logical College in Belgrade, but had not been ordained. To my knowledge, once he arrived here he
6785 no longer pursued any Theological studies. I believe Father Vavich was ordained in the middle 1950's, but at that time he was living in California. I did

not participate in his ordaination. During the period in which Father Vavich lived in Milwaukee, I,
6786 on two occasions, saw him have fainting spells in his own home.

6787 Prior to the ordaination of Father Vavich I had formed an opinion concerning his health. It was my
6788 opinion that he was in poor health suffering from epilepsy. I based this opinion on the observations of the seizures which had taken place in front of me. I communicated my belief to Bishop Dionisije prior
6789 to the ordaination. After the ordaination I had no further contact with Father Vavich. At no time after the ordaination in 1955 did I either orally or in writing communicate with the Bishop Dionisije to register any objection to Father Vavich's being or-
6790 dainer as a priest. I believe I once talked to Bishop Dionisije about Father Vavich health after he had
6792 had a seizure at the alter itself. At no time in conversation with Bishop Dionisije did the Bishop indicate to me that he had done any checking on the medical condition of Father Vavich. After Father Vavich left California I heard that he went to Eu-
6793 rope. I believe this occurred in 1959 or 1960. I do
6794 not recall if during my last appearance in the Court room here in Waukegan a year ago I was ever in the company of Father Vavich and Bishop Firmilian.
6796 The incident in which Father Vavich was charged with molesting or fondling an eleven year old child
6797 occurred in Milwaukee. I know nothing from my personal knowledge of the events that took place in Sacramento, California. I told Bishop Dionisije
6798 about this incident prior to the ordaination. At no time prior to August 2, 1963, did I give any written statement to anyone concerning the facts on Father
6800 Vavich. I do not recall when Mr. Snyder was exam-

inging me back on October 15, 1969, being asked these questions and making these answers: "Now do you know Father Dusan Vavich?" ANSWER: "Yes". QUESTION: "Is he the gentleman who was present in the courtroom yesterday and sat behind you in the
6801 jury box?" ANSWER: "Yes, he was".

6802 Although I probably answered those questions in that way, I do not recall it. I have examined DX 169 purporting to be two letters and can state this is the first time I ever saw them.

6803 I am acquainted with Father Vladimir Malinkovich. I recall that in 1962 I was a member of the Ecclesiastical Court and Vicor General for the middle-west portion of the diocese serving under Bishop Dionisije. I recall that at the request of Bishop Dionisije I went to Indianapolis, Indiana to investigate Reverend Malinkovich and the difficulties he was having in the parish there. The DX 159A is a letter that I wrote to Bishop Dionisije dated September 6, 1962, concerning Father Malinkovich and it bears my signature.

6804 DX 158B is an enclosure which I sent with the other document, 159A. As a result of that investigation, it was my recommendation that Reverend Mal-
6805 inkovich resign as parish priest at Indianapolis. I do not recall whether he resigned. I am also ac-
6806 quainted with Father Timothy Tepsich, who was a priest serving in the American-Canadian diocese in the late 1950's. He left the monastery and went, I believe, to the Episcopal School. He thereafter became the rector of the All Souls Parish of the Episcopal Church here in Waukegan. I served on an Ecclesiastical Court of the American-Canadian Diocese
6807 that was involved in the defrocking of Father Tepsich. To the best of my knowledge, he was under a

suspension, but was not really defrocked. The first step in a normal procedure for defrocking a priest is an investigation and hearing before a court. After the Court makes a recommendation for defrockment several other steps are required. To the best of my knowledge the procedures were never completed and the defrockment never went through. I was assigned to collect evidence and investigate the priest but was never able to find him as he was moving around. All of this occurred in the late 50's or early 60's. I have seen Father Tepsich since then and, as a matter of fact, he has since 1963 served as a priest at the Holy Resurrection Church in Chicago. For some period of time since 1963, Father Tepsich has served under Bishop Firmilian. I am acquainted with Momcilo Djujich. He lived in Gary, Indiana, and was living there in 1962. At no time since then has he been an active priest. I did not, at any time between my arrival in the United States and 1963, flatter Bishop Dionisije.

Cross Examination.

In the letter from Momcilo Djujich addressed to Metropolitan Damaskin dated December 26, 1962, in which he accuses me of being a flaterer of Bishop Dionisije, Djuijich is referred to as a Reverend. He was also known by the title Vojvoda which supposedly means a military commander of sorts. It is a military honor generally conferred on heroes. Reverend Djujich is active in a group of Chetniks here in the United States as president of the Chetnik Organization. Father Tepsich was placed under suspension immediately when court proceedings began and later that suspension was removed by Bishop Firmilian. I recommended an investigation of a priest, Father

Malinkovich, because he and his wife were overly enthusiastic in wanting to accomplish more than was practical and consequently made errors which made their continuation in their parish impossible. After my investigation, I recommended for his good and the good of the parish he be assigned somewhere else. To the best of my knowledge he was reassigned from Indianapolis to Pittsburgh, Pennsylvania in 1964 or 1965. I have examined DX 5A which bears my signature. I was asked by the Investigating Commission composed of Bishop Hrizostom, Bishop Vasarion and the deacon who accompanied them about a Reverend Dusan Vavich. I witnessed Father Vavich's fainting spells and recommended that he seek medical assistance on several occasions, but when he declined, I didn't press him. I do not believe Father Vavich is presently under the jurisdiction of Bishop Firmilian, Sava or Gregory. The last time I heard anything about this man's professional career he was under the jurisdiction of Bishop Dionisije. I have examined PX 30 and can state that I have seen this document before and that it is a translation of the constitution of the American and Canadian Diocese. Also, the three new diocese are acting on this temporarily. This is a constitution of a religious body not a corporation.

The general council over the three diocese contains vicors who are deputies to the Bishops.

VERBATIM TESTIMONY

[6831] Q. At the sabor of 1964 held in Detroit, Father were you present?

A. I was.

Q. And in what capacity were you there?

A. At that time I still was vicar to the Bishop Firmilian for the Middle West Diocese.

Q. And were you from any church at that sabor?

A. At that time I was in Milwaukee, Wisconsin, St. Sava's.

Q. Were you a delegate from St. Sava's?

A. Well, priests are not allowed, regardless whether they are with a parish or not.

Q. Is that a rule or regulation?

A. Yes.

[6832] Q. Where is that stated?

A. In the Constitution.

Q. Constitution I previously showed to you?

A. Right.

Q. Do you know, Father, of your own knowledge, approximately how many of the churches in the United States and Canada in 1964 of the Serbian Orthodox Church were represented at that sabor?

A. Objected to. This is certainly beyond the scope of the direct examination.

Mr. Karacic: They went into the sabor of 1964 and asked all kinds of questions how they were elected, how many from each diocese and—

The Court: Is that not correct, Mr. Holmquist?

Mr. Holmquist: No, it isn't.

The Court: I beg your pardon?

Mr. Holmquist: It is not correct. . I merely asked him about the—how the council, the Church Council that he referred to, how that was—what was the composition of that. He testified that it consisted of three laymen, two priests from each diocese, the three vicar generals or whatever they call them and the three bishops. I didn't go into except for the fact that there was a sabor held in 1964, I didn't ask anything about

[6833] who attended it or how it was composed or anything else.

Mr. Karacic: I believe Mr. Holmquist even asked about resolutions that were passed there and how this council was created from the sabor and who was in attendance and I am really asking at that time what percent was present at that sabor, if this witness knows.

Mr. Holmquist: To have the record straight, I asked this gentleman when he mentioned something about the Constitution, the three diocese were operating under this Constitution. I directed him and I said is there any provision in the Constitution of the American-Canadian Diocese, that is Exhibit 30, which provides for a—this Church Council he had previously testified to and he then in response to that question volunteered that no, it was not in the Constitution, but that at a sabor held in Detroit in 1964, certain resolutions were passed creating this Church Council. Now, that's the way it came up. I didn't go into anything about how the sabor was called, who attended it, who represented it or anything else. He volunteered this in response to my question as to whether or not the Church Council which I did ask about as to how that was composed by what authority was this Church Council formed, was it in the Constitution and he said no, it was created at the sabor and that sabor was

[6834] held in Detroit in 1964. Now, that's how we got this to the sabor, and if I—

Mr. Karacic: Court please, at the beginning of the testimony, could we ask the court reporter to look at this? I have several questions or notations on the sabor here in '64 and I can only get them on my notes from the questions and answers asked at that time.

The Court: Well, I have some notes also that, as I have said previously in the trial, I do not rely on too

literally or fully, but my ruling will be that your reference, Mr. Karacic, must be limited. Now, do you recall whether there is a pending question?

Mr. Karacic: Yes, there is.

The Court: Do you recall what it is?

Mr. Karacic: Yes, I do.

I asked him in this sabor did he know how many churches—Serbian Orthodox Churches in the United States of America and Canada were present at attendance.

Mr. Holmquist: To which I objected because it's just—it's way beyond the scope of the direct examination as to how it was constituted or anything else.

Mr. Karacic: I remember Mr. Holmquist asking where did these churches come from and I remember
[6835] also the witness saying from the territories which were part of the new dioceses and I am merely asking him now how many churches in the United States and Canada—

The Court: I will allow that question and answer.

The Witness: To the best of my recollection, there were 47 parishes.

By Mr. Karacic:

Q. Forty-seven?

A. I believe so.

Mr. Holmquist: Are you saying 47 or 27?

The Witness: Forty-seven.

By Mr. Karacic:

Q. Do you know how many parishes of the Serbian Orthodox Church there were in the United States and Canada in 1963?

A. In 1963, we had 72 parishes.

Q. If you know, Father, were all these 47 parishes originally under the jurisdiction of the American—Canadian Diocese?

Mr. Holmquist: Objection.

The Witness: Not all of them.

The Court: Just a moment.

Mr. Holmquist: He's answered it, let it stand.

The Witness: There are some parishes that were
[6836] created.

Mr. Holmquist: He's answered the question.

The Court: Just a moment, you have answered.

By Mr. Karacic:

Q. Approximately of the 47 how many were originally under the jurisdiction of the American-Canadian Diocese?

A. Forty-four I believe.

ABSTRACTED TESTIMONY RESUMED.

6835 At the Detroit Sabor there were fourty-seven parishes represented. In 1963 the Serbian Orthodox Church had 72 parishes in the United States and Canada. Of the 47 parishes attending the Detroit Sabor
6836 not all of them had been in existence in 1963. I believe 44 of them who attended were original parishes.

DIONISIJE MILIVOJEVICH, testified as follows:

Direct Examination.

6863 (Council stipulate that PX 47B is Minutes from the Diocesan meeting of June 2, 1940 in the handwriting of Bishop Firmilian.)

6864 DX 47B is dated July 2, 1940 instead of June 2. These are Minutes of the first Council meeting I had upon my arrival in the United States. It was held
6865 in Chicago in the Church of Holy Resurrection. My

examination of the Minutes helps refresh my recollection as to where it was held in Chicago. I was ac-
6867 companied by the Secretary of the Dioceses which I appointed, Reverend Firmilian, Now Bishop Firmilian. The legal counsel for the Diocese was present, Mr. Dusan Silasky. There was a conversation with Attorney Dusan Silasky prior to entering the meeting. All other members of the Council were present, and Reverend Firmilian was there also. Silasky said "There is an objection for the appointment of the Bishop Dionisije as our Bishop, and that was sent to Belgrade before his arrival. We have to decide first whether we are accepting him as Bishop or
6869 not." I said to Mr. Silasky "those are the papers, official, which I brought with me, and if you don't accept them, I will return from where I came." I brought the appointment of the Royal Deputy which says "Bishop of America and Canada" and my ordination as Bishop and my passport. Silasky said "how about if you leave for a few minutes and we will speak." Bishop Firmilian stayed inside while I left for about ten minutes. Then Mr. Silasky came out and said "we are accepting you as Bishop."

6870 I then called all the members to stand up and called for the prayers to be read and the agenda for the meeting to be adopted. I told Bishop Firmilian, as Secretary, to write the minutes, and they started. I presided at the meeting. When Mr. Silasky asked me to step out and let them decide as to whether or not they would accept me. I was aware that this was customary in the Serbian Eastern Orthodox Church.
6871 This had happened with Bishop Platon who was nominated to be Bishop of Benja Luka, and people from the Diocese started to send delegations. The

Diocese of Banja Luka is located in Bosnia, but delegations continued to the Patriarchal Palace in Belgrade. This happened in 1929 while I was in Belgrade as Vicar Bishop to His Holiness, Patriarch
6873 Gabriel. Bishop Platon was rejected and he stayed out for a whole year without a Diocese until the Patriarch made a clearance with the Government and the Government finally approved his appointment to
6875 Banja Luka. One of the delegations was a five or six Priests from Banja Luka and other was a mixed delegation of Priests and laymen. I led these dele-
6876 gates to the Patriarch myself. There is also the example of the present Bishop of Sabac, Jovan. Sabac is in
6877 Serbia close to Belgrade. In 1958, Bishop Jovan was Nephew of Bishop Nicholai. The Communist Government refused to confirm him as Bishop of Sabac. Patriarch German told me in a letter "finally we succeeded in placing our Bishop Jovan in Sabac." (The Court grants a Motion to Strike the previous testimony relative to the action of the Government and defense counsel offer it as an offer of proof, and the offer is refused.)

6886 I prepared PX 119, a pamphlet entitled "Creation of the Serbian American Schism by the Serbian Patriarch German and its Bishop Council". The in-
6887 troduction has the date May, 1968 and I prepared it after I got the Judgment. I did not prepare it in Answer to the Indictment and the Judgment. Purpose was to show how the Serbian Patriarch and his Bishops' Assembly made the schism in America
6891 and Canada. (Counsel marks PX 119 as DX 170.)

6892 I may have made a statement to my wife similar to the quotation on PX 16 on Page 7, when she was alive in 1925 and 1926, but later on I have never made

a statement of this kind. I never attacked Mile
6893 Radakovich's daughter as charged in the Indictment. I knew Mile Radakovich and I saw him many times. I was not at his home many times, but he came for meetings as a member of the Diocesan Council. Once he was Treasurer by our Diocese and other times a member of our Diocesan Council. He was never a
6894 Vice-President. At the time of his death in 1961 he was serving on the Council.

I know of the Reverend Prostran who made this charge. He died four, five or six years ago. I never attacked the daughter of Branko Pekich as charged by Reverend Popovich in the Indictment. Branko Pekich was Secretary to Serbian Federation Benevolent Association. He lived in Pittsburgh. I visited
6895 his home only once in 1945 when we were preparing ourselves to go to San Francisco to attack Tito's
6896 delegation in the United Nations. I haven't had any conversation with Mr. Pekich since he went to Florida and became a member of our Church congregation there. I do not know whether he recognizes me or Bishop Firmilian.

6897 I have read the next paragraph, an unsigned accusation, beginning in the Indictment "once Bishop Dionisije forgot himself during celebration . . ." I
6898 attended the celebration on St. George Day, May 6, 1958 I did not make any improper advances toward Mr. Vadakovich's ..... Mr. Vadakovich did not throw me out of the house. At the present time Mr. Vadakovich is secretary of St. Sava Church Congregation in the Monastery. I never attacked Ann Pavlovich as
6899 is charged in the Indictment. I know Mioderaj Andrich. He returned to Yugoslavia three or four years

ago. (Counsel notes for the Court that there is no time stated either in the Indictment nor the enclosure, and also that the enclosure is unsigned.) The incident described in the Indictment in the next paragraph which starts "Reverend Dusan Popovich of Chicago read one letter . . ." did not take place at the camp building at the Monastery or any other place. (Counsel notes for the Court that the Indictment enclosure states that Mr. Rakich's story came from a Holy Confession.) There is a penalty provided in the Serbian
6901 Orthodox Church for a priest disclosing what anybody else tells him in a confession. Milan Rakich,
6906 mentioned on page 8 of PX 16, was a priest in St. Louis. He left that parish in 1954. He went to Yugoslavia and remarried there. He has not been a parish priest in my Diocese in 1954. The charge at-
6907 tributed to Mary Dritto on page 9 is false. I did not receive any notice that a hearing was being conducted in July of 1963 in Springsboro, Pennsylvania. I did
6911 not get any notice that testimony was to be taken from Mary July 27, 1963. (DX 171 and 171A are admitted in evidence.)

6918 The charge on page 6 concerning Reverend Glocar is false. This is the incident that Mr. and Mrs. Pavolich testified to a couple of weeks ago. Someone else also testified. (Defense counsel notes that the Indict-
6919 ment alleges that the statement is given under oath and the enclosure, DX 172 and 172A, indicate that the charge is not given under oath.) (The Court ad-
6923 mits DX 172 and 172A). The charge about meeting
6924 Mrs. Dimitrijevich in the parking lot is false. I did
6925 attend a slava at the home of Mr. and Mrs. Gajich.
6926 (DX 173 and 173A, the enclosure, is admitted into
6927 evidence.) I did not request Father Sava to sing

shameful songs as is charged at the bottom of page 10 of PX 16. I did not make the statement that I am a very bad person, but toward Mrs. Polich I do not think that way because I consider her my sister. (Defense counsel notes that the persons allegedly present at the time were not mentioned in the Indictment but they are mentioned in the enclosure, DX
6931 62A.) (The Court admits DX 62, 62A, B, C & D.)
6932 The allegations of my conduct toward Mrs. Stojanka at the bottom of page 10 of PX 16 are false. I have been in the home of Reverend Marcetich on many occasions but I do not remember the occasion May 6, 1960. I saw Stojanka Kovacevich a couple of times. I have read the paragraph on page 11 of PX 16, beginning "on November 6, 1960 . . ." Her hus-
6933 band is a priest. She came to our residence in Libertyville asking for some financial assistance. I believe she brought her children, two or three. I said to her that I would provide some collection for her and I said to her "why you have so many children?" She
6934 said "what can I do?" I said "some legal ways of preventing conception." She said nothing. She received our help which we collected about $100.00 and she went home. There is no rule in the Serbian Orthodox Church with reference to prohibiting the use of any type of contraceptive device by women. I told her to go to a doctor and that I was not a doctor to recommend any kind of medicine or use.
6935 The charge in the next paragraph, PX 16, that I raped Stojanka Kovacevich is not true. I have not met that woman anywhere except when she came to our Monastery for help. I have read the bottom of page 11 and also the first full paragraph at page 12 of
6936 PX 16. I was not present when these statements

were made. I heard that he made these statements after I left. (PX 174 and 174A, report from the Priest Convention at South Bend, are admitted in evidence.)
6938 PX 175A, a letter dated January 4, 1963, from Metropolitan Damaskin and Bishop Nikanor was received by me from Yugoslavia. PX 175 is a true and correct English translation of that letter. (DX 175 and 175A
6939 are admitted.)
6940 The charge that I had sexual relations with a beautician in Monroe is false. The charge that I slept
6941 with Stana Boduljak is false. It is also a lie that I gave Frances Deodosich a two-story building in Waukekgan worth more than $20,000. I never gave her any dresses or jewelry worth in value over $10,000. The Reverend Maladen Dukichevich is a person I knew in Yugoslavia and he has never been to this
6942 country. (Defense counsel notes for the Court that the time of the occurrence is not mentioned in the Indictment or the enclosure.) With reference to the paragraph at the bottom of page 12, I never had an affair with Rada Milentijevich. I saw her a couple of times, first in the house of Reverend Milan Burkich in Milwaukee. This lady was born in Yugoslavia. As
6943 far as I know Very Reverend Burkich intended to marry her for some of his relatives. I saw her a sec-
6944 ond time in the house of another man in Milwaukee, Mr. Strasnar, where she was working as a maid. She came to our Monastery during this summer also. At that time she told me that she was going to the Chicago University as a student. I believe some other
6945 girls were with her. One of the girls was from India, one from Pakistan, one from Egypt, and one from Italy. One girl was a follower of the Aga Kahn. Stojan Lazarevich was taking a vacation in our Mon-

astery during the summertime and he spoke with them an hour or two and they went. I saw her once more on a Christmas Eve. She came with two or three
6946 girls and I had company in our house. She started to explain to other students what our Christian customs were. I don't know where she is now. I know she wanted to travel to Europe and after that she left for Europe and I didn't see her anymore. I never bought her an automobile. I have helped many stu-
6947 dents and I gave her once $100 or $150. She was then going to school at the University of Chicago. (Defense counsel refers to page 13 of the Indictment. The paragraph regarding the purchase of automobiles and a trip to California.) I never bought her a Chev-
6948 rolet or a Cadillac. I did not travel with her to California or anyplace in the United States or Canada. I did not buy her 15 acres of land in Niagara Falls. (Defense counsel notes a witness was mentioned in the enclosure who is omitted from the Indictment with respect to this charge.) All of these charges on page 13 having to do with Rada Milentijevich are false.

With respect to Milka Suka on page 14 of the Indictment, I sold property to her and her son. I did not give any property to her. Mrs. Suka served our Monastery as a cook and lived at the Monastery with
6950 her son. He became a priest in my Diocese. He is a
6951 priest in Steubenville, Ohio, and he no longer recognizes me as Bishop. I sold some property to Mrs.
6952 Suka. DX 176 is a true copy of the Deed, the grantors being Veron and Margaret Wells and the grantee being myself. DX 177 is a Trust Deed showing me as grantor and J. H. Clendenan as Trustee. I executed this Trust Deed when I purchased the property. The consideration was $8,000. I believe I paid $16,000

or $18,000 for the property. The price could have been $14,000. (Defense counsel notes that revenue stamps on the Warranty Deed indicate the sum of $15.40.) DX 178 is another Trust Deed showing con-
6955 sideration of $1,000 that I executed as a second mortgage on the property. DX 179 is a Xerox copy of the Warranty Deed dated February 28, 1952, with me as grantor and Milka Suka and Reverend Walter Suka, her son, as grantees. (Defense counsel notes that the Deed indicates the property is taken subject to the two Trust Deeds that are introduced as Exhibits 177 and 178.) I did not charge her any more for it than
6956 what I paid for it. She undertook to pay off the two mortgages. I received some cash at the sale. I do not remember the exact amount that I paid for it. I sold
6957 them the property for the same amount of money that I paid for it. (Court admits DX 176, 177, 178
6958 and 179.) Mrs. Suka was cook at the Monastery until 1948. She then left the Monastery with her son and until 1952 was living in Farrell, Pennsylvania. She died a couple of years ago. I do not know if she
6959 was residing on the property I sold her at the time she died. Her son is not living at those premises. I did not throw her out as charged in the Indictment on page 14. She wanted to go with her son.

Reverend Radovanovich is our priest from Racine,
6960 Wisconsin. He resided in the Monastery from 1951 until 1952. He could not have thrown Mrs. Suka out of my residence because he came to the Monastery two or three years after she left. I never chased Reverend Balach out of the Monastery because of Mrs. Suka. Reverend Balach is the same Bishop Balach who is now Bishop of Australia. None of the
6961 allegations in the Indictment about Milka Suka are true.

I do not know anything about the material in the first full paragraph, on page 15 of the Indictment starting "one distinguished Arch-Priest is writing."

6962 I know Mitrofan Kresojevich, but the charge on page 15 is not correct. He is a priest and he was in Arizona in 1953. I don't know whether he had homosexual charges but he had some difficulties with the police from Phoenix. This priest came to the Monas-

6963 tery in 1953. I had a conversation with him. He told

6964 me the church congregation of Phoenix, Arizona relieved him from duty. He said that they charged him with illegal connections with a boy. I received a letter from the church congregation. He brought a letter

6966 from the church congregation which said that the church congregation relieved him on account of the charge that he had connection with some boy, but the police or general attorney of that place said that he would not put him in jail but send him to the Bishop for correction. I had a conference with him at Libertyville. He stayed at the Monastery for one or

6967 two years. I would see him every morning for breakfast or every day for dinner, or everytime we were in the church. I did not discover any incidents similar to the one that had occurred in Arizona while he was in the Monastery. He made a confession and gave me an oath that he would not do it again. After a

6968 period of a year, I transferred him to the Shadeland property to care for the old people. This was 1955 or 1956. He took care of the aged home, organizing inside and supervising the personnel. He stayed at Shadeland for three years. Then I sent him to a parish, Galveston, Texas where he stayed for two or

6969 three years. While he was in Galveston I did not have

any further notice of any further difficulty. He was then placed as our Parish Priest in Elizabeth, New Jersey where he is now. He has been in Elizabeth two years, performing the duties as Parish Priest. He has served in one capacity or another in my jurisdiction since this incident occurred in 1953, a eriod of 17 years.

I don't know anything about the next charge on page 15 of the Indictment. With reference to the next charge about three Monks as known pedarist. I knew

6971 about one Monk which I sent Regina, Saskatchewan, Canada and he was a pedarist. He was condemned by the Court and we defrocked him. This occurred about six years ago. I don't know who these three people are that are being referred to. (De-

6972 fense counsel marks DX 180, the Indictment enclosure from which the charge is taken and quotes the following language "three of these remaining Monks are known as homosexuals and closet operators of Mr. Dionisije who actually, along with him, managed this Diocese in whom he proposes to the Holy Synod for his future Bishop Vicars."

7487 BISHOP FIRMILIAN OCKOLJICH testified as follows:

Direct Examination.

Under Section 60 of the Civil Practice Act.

My name is Firmilian Ocokoljich and I reside presently at 8347 West Summerdale, Chicago, Illinois. The Diocesan Office of the Midwestern American Diocese is presently at 5701 North Redwood Drive in

7488 Chicago. I am presently Bishop of the Midwestern

7489 Diocese of America. DX 190 accurately sets forth the present hierarchy of the Serbian Orthodox Church

here in the United States as it is related to the Patriarchate in Belgrade. On the level which shows the Holy Bishop's Assembly and the Holy Bishop's Synod, on the lefthand side is a broken line which shows the Patriarchal Council. I do not know if the Patri-
7490 archal Council has convened since 1963 when I became a Bishop. I did not receive any notice from the
7491 Patriarch regarding it. I believe it is correct to state that to my knowledge there has been no session of that Council for seven years. On the next level on the chart is shown the Western American Diocese and Bishop Gregory, the Eastern American Diocese and Bishop Stefan, and the Midwestern American Diocese and Bishop Firmilian. Directly above that is the Serbian Orthodox Church in the United States of Amer-
7492 ica and Canada. That is the religious body of this country. The Serbian Orthodox Church is one and undivided. The Church in the United States of Amer-
7493 ica is a religious unit of the Mother Church in the old country. This unit utilizes my office in Chicago
7494 and has stationery under the title of the Serbian Orthodox Church in the United States of America and Canada. I believe that the three Bishops are the head of that organization. I was elected and am the
7495 Bishop of Midwestern American Diocese. It is an autonomous diocese in and of itself, as are the Eastern American-Canadian Diocese and the Western
7496 American Diocese. The three of us acting together act for the Serbian Orthodox Church in America and Canada and there is no one Bishop who is head of the organization known as the Serbian Orthodox Church in the United States of America and Canada, a religious body. There are in addition to the American Dioceses, other dioceses mentioned in the Con-

stitution of the Serbian Orthodox Church; for example, the Diocese of Budimlje, which was part of the Serbian Orthodox Church in Rumania and at the present time we have a Diocese for Western Europe
7497 and Australia. Beneath the level where the Western, Eastern, and Midwestern Diocese are shown on the chart, is a Diocesan Church National Assembly and Diocesan Ecclesiastical Court. Each of the dioceses has a Diocesan Ecclesiastical Court of its own, but they do not each have a Diocesan Church National
7498 Assembly. Each of them has a Diocesan Council and a Diocesan Executive Board. This chart is in error when it indicates that each diocese has a Church National Assembly. Each diocese has its temporary
7499 Diocesan Council, Diocesan Ecclesiastical Court, Diocesan Executive Board, Religious Education Section, and the Financial Executive Session is run by the Diocesan Council itself. Each Diocese also has a secretary as shown on the chart. The Serbian Orthodox Church of the United States of America and Canada, a religious body, had a secretary in the beginning for the so-called Diocesan Church Council, and the secretary was Father Milan Brkich. The temporary secretary at the present time is Father Velimir. I
7500 have a Diocesan Ecclesiastical Court of the Serbian Eastern Orthodox Diocese for the United States of America and Canada. This is not a different body
7501 than the Serbian Orthodox Church in the United States of America and Canada of which I am the temporary administrator. There is no Ecclesiastical Court for the Serbian Eastern Orthodox Church of the United States of America and Canada. There is
7502 no single Bishop who is the head of that religious

body. I am familiar with DX 189 which is a calendar of Serbian Orthodox Church in the United States of America and Canada.

7504 (Offer of proof.) This calendar purports to show, as of 1965, the church congregation in the Midwest-
7505 ern American Diocese. The first church listed in Illinois is Bellwood, St. John the Baptist Serbian Orthodox Church. It is listed there because we have registered here those members who accepted and recognized the decision of the Mother Church, but the church is actually on the other side. The church congregation as a matter of fact, located at Bellwood, does not recognize me as bishop, but rather Bishop Dionisije. The next one listed in Chicago is Holy Resurrection Serbian Orthodox Church which in fact split in 1963 or shortly thereafter from what was known as Holy Resurrection Serbian Orthodox Church, and they have now evolved the Holy Resurrection Serbian Orthodox Church Cathedral, the old Holy Resurrection Serbian Orthodox Church, St. Nicholas Church, and St. Stefan Church. I have
7506 heard that there were three additional churches formed from the membership that split from Holy Resurrection Church. The next one listed in South Chicago is St. Archangel Michael's Serbian Orthodox Church which split, and there are now two churches, one that recognizes me and one that recognizes Bishop Dionisije. The next church on the list shown in Waukegan is St. Nichols Serbian Orthodox Church which was actually organized some time in the beginning of 1963, but not consecrated until Novem-
7508 ber of that year. I believe that it would be fair to say that the church was not in an organized existence in May of 1963, but it had been approved by the former Bishop Dionisije. The next one listed is in

Gary, Indiana which is St. Elisha Serbian Orthodox Church, and it did not exist in May of 1963. This Church was organized by members of the St. Sava Serbian Orthodox Church in Gary who recognized the decision of the Holy Assembly and split from that church and formed this new one which pays allegiance to me. There is still a St. Sava Church in Gary that recognizes Bishop Dionisije. The church listed for South Bend, Indiana is St. Peter and Paul Serbian Orthodox Church and it is still in the pro-
7509 cess of litigation, so there are some people there who recognize me, and some that recognize Bishop Dionisije, and that dispute hasn't been settled as yet, but a great majority recognize the decision of the Holy Assembly. St. George Serbian Orthodox Church in Indiana Harbor is divided, but the people who recognize Bishop Dionisije are in possession of the church
7510 building. This is also true of St. Nicholas Serbian Orthodox Church in Indianapolis. Again this is true of Holy Trinity Serbian Ortohdox Church in St. Louis, Missouri. I do not know if there are two churches in Kansas City. This is also true of the
7513 people in Galveston, Texas, who control the church building and recognize former Bishop Dionisije. St. Lazarus Orthodox Church in Detroit also split at the time of the controversy, but 99% of the people there remained loyal to the Mother Church. Those who left, I have heard, formed some other church organi-
7514 zation. In Duluth, Minnesota, the majority remained loyal to the Mother Church and a rebel group formed some kind of a congregation. So there is one legal Serbian Orthodox Church in Duluth, and another which claims to be a Serbian Orthodox Church. In Hibbing, Minnesota the majority of the congregation

of St. Archangel Michael recognize the authority of the Mother Church and a group who did not leave the church, but I do not know if they formed a new
7515 church. In Omaha, Nebraska, 95% of the people at St. Nicholas remained loyal to the Mother Church, and the other 5% left the church. In Milwaukee, Wisconsin the group which left and did not recognize the authority formed a new church in Cudahy, Wisconsin. In 1963 a church existed in Libertyville at the Monastery. That church is still in existence and recognizes Bishop Dionisije and would normally be included in the Midwestern Diocese. There is also a church in
7517 Ecorse, Michigan which is still in existence and recognizes Bishop Dionisije, and that church would also be within the territorial limits of the Midwestern Diocese. This is also true for a church located in St. Paul, Minnesota, but the congregation divided and those loyal to the Mother Church left. The Church in Racine, Wisconsin was in existence at the
7518 time of the controversy and still exists today, and that group recognizes Bishop Dionisije. Racine is also within the limits of the Diocese of which I am Bishop. (End of offer of proof.)

I recognize DX 191 purporting to be a counter-Affidavit of Rt. Rev. Bishop Firmilian Ocokoljich and at page 4 my signature appears. On page 2 of that document I stated as follows: "the corporation in-
7519 corporated in 1927 and known as the Serbian Eastern Orthodox Diocese Council for the United States of America and Canada is no longer in existence and has been dissolved." I also stated in this Affidavit as former secretary of the Serbian Eastern Orthodox Diocese for the United States and Canada, "a religious corporation duly authorized and existing under the laws of the State of Illinois. I am familiar

with said corporation and its records including its Constitution which has been amended." I also stated
7520 with reference to the Constitution of the Serbian Orthodox Diocese for the United States of North America and Canada, "I have inspected Exhibit #3 of the Complaint and state that it is a true and correct copy of the translation of said Constitution from the Serbian into the English language." I further stated
7521 that I was familiar with the activities of this religious corporation and its frequent contacts with the Patriarch, the Holy Synod and the Holy Bishop's Council in connection with canonical, hierarchical and religious activities; that missions were sent from time to time from the religious corporation to those bodies; requests were made by religious corporation to those bodies from time to time relating to the appointment of priestly officers and the items above specified and said bodies communicated answers and other orders and information to religious corporations records which are in the possession of defendants herein. This Affidavit which I signed was prepared on or about the date it bears, April 18, 1964 and was filed
7522 in this case at about that time, and for the record appears at pages 232 and 235. I was elected Bishop of the Midwest American Diocese on 27 July, 1963 at the same time Bishop Gregory was elected Bishop of the Western Diocese. Bishop Lastavica was elevated to Bishop on May 11, 1963. I was proposed for election on May 11, but failed to receive the necessary
7523 votes to be elected. My election and that of Bishop Gregory were by the Holy Assembly of Bishops in Belgrade and that is the only body that can remove me as Bishop of the Midwestern Diocese, according to the Constitution. My first duty is to administer

the American-Canadian Diocese and then with the two other Bishops make the necessary changes in organization of the Diocese and send all these changes to the Holy Assembly for approval. Having been
7524 made Bishop of the Midwestern American Diocese, it is a fair statement to say that I will remain as Bishop until I die or until I am removed by the Holy
7525 Assembly or applied to retire. By my election I became a member of the Holy Assembly of Bishops. The
7526 three Dioceses had their Church National Assembly in Detroit in 1964 and that is the only National Assembly that has been held since May of 1963. That was one meeting in Detroit at which all of the church congregations that then recognized me, Bishop Lastavica, and Bishop Gregory, sent their representatives.
7527 There was at that time a temporary Church Council elected from all three Dioceses. That Council has continued to function since 1964 and there are 18 members on it, including the three Bishops. My Diocese, the Midwestern American Diocese, has a Diocesan Council which has been in existence since 1963.
7528 We elect a new Diocesan Council every second year at a meeting. The most recent Council was elected in November of 1969 and the meeting took place in the Diocesan Office at 5701 North Redwood Drive, Chicago. Two delegates from each congregation and the clergy elect the Diocesan Council. These church congregations are those in the Midwestern American Diocese and the clergy from those congregations. At
7530 the most recent meeting in November of 1969, I believe about 18 congregations participated and there would be two laymen for each of those and at least one parish priest from each of those. There are no other organizations within the church who were represented or who participated in the election of the

Diocesan Council, and I presided at the meeting.
7531 Members of my staff and the Ecclesiastical Court participated as clergymen. The procedures for elections is in keeping with the Constitution of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, but the group that met in Chicago in November of 1969 elected a Council for the
7532 Midwestern Diocese. No other bodies were elected.
7533 I know that the other two Dioceses had similar elections according to the Constitution, where they elected committees. I had nothing to do with the election in the two other Dioceses. I put out the call in my Diocese for the meeting. The Sabors that were held every three years had laymen come from different parishes and priests meeting from different parishes, and the group would elect the Diocesan Council for the Serbian Eastern Orthodox Diocese for the United States of America and Canada. We have followed the same procedure since 1963 in electing our Diocesan Council for the Midwestern American Diocese. We
7537 have been having these Assembly meetings periodically ever since 1963. I believe we have one every sec-
7538 ond year so there is a new Diocesan Council and
7550 Board elected every two years. I have a copy of DX 192 which I addressed to the Holy Synod of Bishops of the Serbian Orthodox Church and which I signed
7551 as Bishop of the Midwestern Diocese. In this document I mentioned that it is an Assembly in the second paragraph "the Assembly under our presidency held on November 6, 1963 in Milwaukee, Wisconsin". When I say our presidency I refer to myself. When I use the word Assembly, I did not say Church National Assembly, but just a meeting of people. I feel a
7552 more correct translation would be annual meeting, but

not Church National Assembly. The same people who attended that meeting would be those who would always attend a Sabor of the American Canadian Diocese. The only voting members were the 14 parish priests and 22 delegates. I believe the other two
7553 Dioceses operate in a similar manner as at one time after the death of Bishop Stefan, I was appointed temporary Administrator of his Diocese by an act of
7554 the Holy Synod of Bishops. This occurred a few days after the death. There was a meeting of the Synod in Belgrade between the date of his death and the date I received my appointment, and I received notification indicating that they had met and duly appointed me.
7555 I was relieved of my duties as Administrator after the election of the new Bishop. Two Bishops came
7556 and installed the new Bishop in his Diocese, but I do not recall that I ever received a direct communication from the Holy Synod advising me that my duties as temporary Administrator had been termi-
7557 nated. Had I been so advised I would have retained a copy of that decision among my files.

7558 In DX 192 dated November 26, 1963, which I wrote, I referred to Church Councils which will bring changes and amendments to the present Church Constitution. I was referring to the Holy Assembly's edict that we draw the borderline between the dio-
7559 ceses and other proposed changes. It was a decision of the Holy Council of Bishops of May 10, 1963 that the American-Canadian Diocese be reorganized and
7561 territory be added. In my letter of November 26, where I spoke of changes and amendments, I was discussing those which were needed to implement and carry out the decision of the Holy Assembly of Bishops of May 10; they had said as soon as Bishops are

appointed for the newly established dioceses, all other necessary diocesan bodies and organs should be organized. The final boundaries of the newly established diocese however, and revisions of the existing Church Constitutions should be studied by the Church National Assembly and submitted for final decisions to the Holy Assembly of Bishops. We three Bishops
7562 have to present this to the National Assembly and together with the Assembly, shall make final boundaries and necessary changes and forward it to the Holy Assembly for approval. There was since 1963, a
7566 Church National Assembly held in Detroit in May of 1964, but it did not take any action in any way to modify the division of the former diocese into three new diocese, as we could only make temporary borderlines because of the case here in Waukegan, and we promised the Court in Waukegan not to interfer with the corporation. At the Detroit meeting we did
7568 not do anything to change the existing Constitution of the American-Canadian Diocese because of our promise to the Court in Waukegan. We accepted
7569 the decision of the Holy Assembly of Bishop's unani-
7571 mously. The changes I had in mind when I wrote this letter were those necessary to implement the instructions of the Holy Assembly of May 10, 1963.
7572 We plan to amend the existing Constitution of the Serbian Eastern Orthodox Church for the United States of America and Canada. This action should
7573 be taken by the three Bishops together with the Church National Assembly. Once this action was
7575 taken and approved by the Holy Assembly of Bishops then these three new dioceses will be successors of the Old American Serbian Orthodox Diocese for the United States of America and Canada. It was at the

meeting of May 17, 1963 of the Holy Synod that I was appointed temporary administrator of what was known as the Middle Western American Diocese, and this appears on page 150 of PX 205 purporting to be copies of the minutes of the Holy Synod's meeting.

On page 148 is a recital of the action taken by the Holy Assembly at that meeting and the contents of that recital were forwarded to the persons named on page 150, including His Grace Bishop Dionisije, the Ecclesiastical Court, the Diocesan Council, the Church Lay Council Sabor in Libertyville, with copies to the Administrator of the Western American Diocese, to the Administrator of the Middle Eastern American Canadian Diocese, and to the Religious Commission of the Federal Executive Council. I first received a letter appointing me Administrator and later this exhibit.

Following the May 10 meeting of the Synod, I at no time received a letter addressed to me as Administrator of the Serbian Eastern Orthodox Diocese of the United States of America and Canada during 1963, nor did I receive any such letter from the Holy Bishop's Assembly.

PX 202 purports to be the minutes of the Holy Council of Bishops of May 11, 1963. These are the minutes which Mr. Karacic and I went to Belgrade and got and brought back here last month. I was aware that I had been nominated for Bishop on May 11 but that it was defeated. I was not aware that part of that proposal was that one of the newly created bishops be named as administrator of the Mid-Western Diocese to which Bishop Dionisije had been transferred and then suspended. What is marked as Exhibit 195 is a copy of the letter which I sent to the

Patriarch as Bishop of the Mid-West American Diocese. Where I referred to the fact that the Patriarch should not take advice from legal counselors, I was referring to information that the son of Mr. Nicholas Stepanovich was in Belgrade and had visited the Patriarch and had a conversation concerning why Firmilian is not a metropolitan. I heard about the conversation here and wrote the Patriarch not to take anyone's suggestion but to wait for our three bishops to propose what the church needs here in America. I told him that this should be put in the Constitution first and that it is not the time for it now. It was my feeling that once Bishop Sava was installed as Bishop, it was automatic that my duties as administrator terminated. When I received the decision of the Holy Synod I read it carefully and it stated that Bishop Dionisije should give the diocese, the American-Canadian Diocese, to his deputy and it named my name. Regarding the duration of my appointment as administrator of the American-Canadian Diocese, I relied on the document that the American-Canadian Bishop Dionisije was suspended and that his duties should be given to Administrator Firmilian. It was my understanding that I would be administrator of that diocese until the guilt of Bishop Dionisije was conclusively investigated and judged.

(Offer of proof.) It was my understanding that my duties as administrator of the Serbian Eastern Orthodox Diocese of the United States of America and Canada were to continue until the guilt of Bishop Dionisije was conclusively investigated and judged. Bishop Dionisije's guilt was conclusively established by the Holy Assembly on March 5th 1964. I do not think that my duties terminated on that date nor have

they terminated as of this date. (End of the offer of proof.)

There is a Serbian Eastern Orthodox Diocese of
7631 the United States of America and Canada today and I am the temporary administrator and will continue to be so until Bishop Dionisije fulfills the order of May 10, 1963 to turn the diocese over. My duties are to put into effect all of the decisions of the Holy Assembly of Bishops. The first decision was the suspen-
7632 sion of Bishop Dionisije and he was suspended and has been defrocked and so this is a concluded statement in the eyes of the church. Concerning the enforcement of the decision to divide the diocese into three parts, it was my duty to call a church national assembly, preside over it, read the decisions of the Holy Assembly of Bishops and Synod, and make provisions for the Amendments in the Constitution to be
7634 sent to the Holy Assembly for approval. As the highest church authorities are binding on every member, it was my duty to inform the Church National Assembly about the decisions and to impliment them.
7637 In 1964 this case had not yet been decided in Court and the three bishops summoned the Church National Assembly to temporarily reorganize and place boundaries between the dioceses. When the court decides
7638 the issue, we shall call a Sabor and make the necessary amendments and send them to the Holy Assembly of Bishops for approval. In May of '64 in Detroit we carried forward as far as we could the reorganization of this diocese into three parts with the bishop at the head of each of the three. If the court
7641 sees fit to grant me as administrator control of the assets and properties of the Serbian Eastern Orthodox Diocese of the United States of America and Canada, I would call under the Sabor another church
7643 national assembly.

(Offer of proof.) It is not contemplated that there will be in the future a bishop elected to replace Bishop Dionisije as bishop of the Serbian Eastern Orthodox Diocese of the United States of America and
7645 Canada. If I called a Sabor it will be my duty to inform the people about the decision of the Holy Assembly of Bishops and to see that it is carried out by the Assembly. I do not know whether the property will be divided up and it is for the church national assembly to decide these questions. I heard the Bish-
7647 op Nikanor testify that the monastery would go to the Mid-West Diocese, Shadeland would go to the Eastern Diocese, and Jackson would go to the Western Diocese, but that is his opinion. (End of offer of proof.)

7648 In the call for the Sabor held in Detroit, Michigan, in May of 1964, it was proposed as per the Constitution that two delegates from each of the churches be sent. This is in accordance with Article 16 of the American-Canadian Constitution. In that call that I and the other two bishops sent out, we specified that the two delegates, in order to attend the Sabor and participate, would have to agree to recognize the highest authority of the Serbian Church, the Holy Bishops Council and the Holy Bishops Synod and a decree relative to the division that formation of three Serbian Orthodox Dioceses in the United States of America and Canada.

7651 DX 197, dated February 10, 1964, is an English translation of the call to the Church Assembly to be held in May of 1964. This further provides that in
7652 order to be elected as a lay delegate to the Sabor only persons who agree to the reorganization of the diocese into three new dioceses could attend. Only

persons who recognized all the decisions of the Holy Assembly including the removal and suspension of
7654 Bishop Dionisije could be elected. Article 16 of the American-Canadian Diocese Constitution provides that delegates to the Diocesan Assembly will be individuals elected by church school congregations, namely two laymen. Those priests who followed the Amer-
7656 ican-Canadian Diocese under Bishop Dionisije eliminated themselves from the Sabor in Detroit in 1964 by refusing to recognize the church authority. I added the following sentence to the call "Priests of both orders who have selected schism and have participated in schismatic action cannot participate in the church peoples assembly." These were priests who retained allegiance to suspended Bishop Dionisije and continued to recognize him after the Holy Assembly's decision. They could not work or attend the Church National Assembly. At that time Bishop Dionisije had not been defrocked, but was suspended which means he was removed from all authority in
7658 the church. A priest is obliged to obey his bishop as long as the bishop will obey the orders of the highest
7661 authority. If a priest were willing to accept the decisions concerning the suspension of Bishop Dionisije but refused to accept the decision to divide the diocese into three parts, he would not be permitted to participate as a voting member of that Sabor held in 1964 in Detroit because he would have disobeyed the orders
7666 of the highest church authorities.

(Offer of proof.) In our letter summoning the Sabor in Detroit we specified who could attend and told the delegates and the clergy who could not attend according to the rules of the church. Shortly after the
7667 three administrators were notified of the action of

the Holy Synod on May 17, 1963, a meeting was held with ten or twelve clergymen at Shadeland in Pennsyl-
7668 vania. I had not been in contact with Bishop Dionisije via telephone or directly between May 10, 1963 and the meeting of administrators on June 3rd 1963. I received a letter from Bishop Dionisije dated May
7669 30, 1963 marked PX 120. I did not write any letters
7670 to Bishop Dionisije at this time. Between May 10th
7671 and June 3rd of 1963, as administrator of the Serbian Eastern Orthodox Diocese of the United States of America and Canada, I did not make any request personally by telephone or in writing to Bishop Dionisije asking him to surrender the diocese to me as administrator. I recognize DX 198A purporting to be the minutes of the meetings held at St. Sava Church, Pittsburg, Pennsylvania, June 10, 1963 with my handwriting appearing on the front page at the
7673 top. This refreshes my recollection that myself and the two other administrators had before us on June 4, 1963 Bishop Dionisije's letter. It was decided at this meeting of administrators that we would attend the plenum meeting of the American-Canadian Diocese scheduled to be held in Libertyville on June 6, 1963 and, in fact, we did attend that meeting. About 70 people attended at that meeting which were more than should have attended. The plenum refers to
7679 both halves of the diocesan council meeting. One half is financial-administrative; the other is educational and when they meet there should be twelve and not 70. Prior to June 6, 1963 I had occasion to at-
7680 tend plenum meetings and Bishop Dionisije used to bring all the committees, for example, the committee for Shadeland, the committee for the monastery, the commitee for Jackson, to these meetings and

that's how he understood the plenum. On several
7681 occasions I tried to tell Bishop Dionisije that this was not what the plenum was supposed to be. On one oc-
7682 casion in 1962 I recall pointing this out to Bishop Dionisije when I was there in the capacity of his deputy. Based on my interpretation of the word plenum, I was not entitled to be in attendance at that meeting but I did attend as the bishop ordered me. There was a call for the meeting of the plenum and
7684 I attended. I did not make an objection at that meet-
7686 ing. I do not recall when I made my objection, but probably when I received the invitation. This was during an informal conversation with the bishop when just the two of us were present. At the June 6th
7689 meeting the members of the educational section and
7690 the financial section were both present at that meet-
7691 ing. The officers of the council were present. At this meeting the suspension of Bishop Dionisije and the reorganization of the diocese were discussed. At that time we received from the Holy Assembly and Holy
7692 Synod all of the decisions. The part of DX 198 which relates to the meeting of June 6th, 1963 was prepared by me because I was the only one of the three administrators who was present. I do not recall what
7694 the majority of persons at the June 6th meeting opposed the decision of the Holy Assembly to divide the diocese into three parts. They said that they were not competent to decide such a question, but the church national assembly should decide. They then decided to send a telegram to the Holy Synod asking
7695 for an investigation commission. I recorded in Document 198 that it was obvious the majority believed the decision of the Holy Assembly creating new dioceses was made without prior consultation of the dio-

cesan governing bodies and was against the American-Canadian Diocese Constitution which could only be changed by a church assembly.

7696 The majority at the meeting of June 6th felt they were not competent and that the church peoples assembly should rule on the matter. They also desired the Assembly be rescheduled to August instead of October and that the investigative commission arrive prior to the Assembly meeting for investigating pur-
7697 poses. At this meeting I asked the Bishop Dionisije to
7698 turn over the administration of the diocese to me. I wrote on page 3 of this exhibit, "We consider appropriate to let the Holy Synod know the appointment of an administrator for the Mid-West Diocese in addition to the aforementioned situation produced also a doubt that the administrator's role follows in advance prepared plan: mainly to take over the administration of the diocese until another bishop from Yugoslavia is appointed for this diocese." This statement reflects what was discussed at the meeting. My appointment as administrator of the Mid-West Diocese was included in the discussion because at that time we had received the May 17th decision of the
7699 Holy Synod.

7712 I do not know whether the amendments to the American-Canadian Church Constitution in 1960 were approved by the Holy Assembly of Bishops. I attended the Sabor in 1960. PX 145D are the minutes of the Church National Assembly of 1960 and at page 4 deal with the structure of the Plaintiff. This pro-
7715 posed amendment was not adopted. This Sabor did
7718 not accept the committee's recommendation with ref-
7719 erence to these changes in the Constitution. It referred the matter to the Diocesan Plenum which

would select a committee to study it. The power to rework the Constitution was given to the plenum and they were permitted to submit the Constitution
7720 they would draft to the Holy Assembly of Bishops directly. A decision to revise the Constitution must be submitted to the Holy Assembly for final approval.
7721 It was not submitted. It is my opinion that the Constitution requires rearrangement of the plenum be approved by the Holy Assembly of Bishops. Up until
7726 June 6, 1963, Bishop Dionisije had not been tried. All of the charges had been read at the Holy Assem-
7727 bly of Bishops. At the time Bishop Visarion and Bishop Hrisostom issued their statement from Mil-
7732 waukee condemning Bishop Dionisije, he had not been tried. I cannot give an opinion as to whether or not Bishop Hrisostom and Bishop Visarion violated the canons when they made this statement.

FIRMILIAN OCOKOLJICH testified as follows:

7738 In the June 10 minutes, the first recommendation was that we hasten against Bishop Dionisije. In the
7746 1941 minutes, the plenum is defined as the Diocesan Council, Educational Board, Auditing Board, and Ecclesiastical Court. This proposal was approved by the Sabor. The 1956 Sabor changed the Diocesan
7750 Council so that it is composed of Executive Board, Education Board, Board of Shadeland, and Board for Canada.

7756 (DX 200 is admitted in evidence.)

7766 Bishop Dionisije bought the Shadeland property and then transferred it to the Diocese in a way similar to the purchase by Bishop Mardary in Libertyville

and subsequent transfer to the Diocese. I recognize
7769 my handwriting on DX 201. I was a member of the
7771 committee that recommended the property be trans-
7773 ferred from Bishop Dionisije to the Diocese. Before
7774 signing my name and making this recommendation, I was assured from my examination of the bills and documents that everything was in proper order and that the amount agreed upon was a fair and reasonable price for the property in question.

(DX 201 and 201a are received in evidence.)

7775 DX 202 is the agreement between Bishop Dionisije (seller) and the American-Canadian Diocese as the purchaser of the property known as Shadeland. I
7776 signed in the capacity as a member of the Board of Directors of the Diocese at that time.

7777 (DX 202 is admitted in evidence.)

7782 (DX 203 and 203a are admitted in evidence.)

7783 I am acquainted with a priest named Dusan Bavich. I met him when he was a cleric of the American-Canadian Diocese. He was in Lorain, Ohio, then California, and then in 1963, he was in Italy. He was
7784 a Serbian priest in Europe in 1963 under the jurisdiction of the Patriarch. Europe at that time was under the jurisdiction of the Patriarch. He was in
7785 Salzburg after the suspension of Bishop Dionisije.
7786 Sometime after 1963 he came to the United States for five or six months and then returned to Austria.
7787 He temporarily served in Waukegan at the Church of St. Nicholas. I asked him to serve in Waukegan. He had a letter from the Patriarch that he was in good standing and as such he was permitted to serve in my Diocese.

7788 I ordained Father Koster and Father Bavich parti-
7789 cipated in that service. He came to the United States
7790 again sometime in 1969 and he is still living here. He

is not serving in my parish. He is still a cleric of the Patriarch and the Diocese, Western Europe and Aus-
7792 tralia. This is the same Father Bavich that is men-
7793 tioned on page 17 of the indictment. At the time I accepted this priest and put him in Waukegan I had knowledge of this charge in the indictment of Bishop Dionisije. Father Burkich who made the charge was my secretary in 1967. I know of Father Timothy Tep-
7794 sich. I remember that he served in California and in 1957 came to Libertyville.

7797 The signature on DX 204 is that of Reverend Tep-
7798 sich. I know that he went under the jurisdiction of the Angelican Archdiocese of Chicago and became a priest in the Angelican Church. He served in an An-
7799 gelican Church in Waukegan for a whole. He also went to the Russian Orthodox Church in Pennsylvania.
7800 The Patriarch released him from his suspension and sent him to Europe. He then came under the juris-
7801 diction of my Diocese. He has served as a priest in
7804 my Diocese. In the Orthodox Church there is a possibility of forgiveness. If someone makes a mistake he can be forgiven if he asks forgiveness. The Patri-
7807 arch is a Bishop just like me and his powers are no greater than mine except that he has been elected to
7808 serve as the Patriarch. He has no higher power than
7809 I do to interpret the Canons. The Patriarch is a Bishop, the first among equals. I am looking at page 13 of the Judgment where ≟8 refers to a charge against
7810 Bishop Dionisije by me. Metropolitan Damaskin
7811 asked me and I told him what I had heard from the members of the Executive Board at Elizabeth. It was
7816 customary for the Church Parish to reimburse the Bishop for his traveling expenses and I do not consider the $200.00 charge to be unreasonable. I do not

7818 consider that the charge was too much. Metropolitan Damaskin did not ask me whether these travel charges were excessive or unreasonable and I did not volunteer the information. In order to obey the
7819 decisions of the highest church authority, people would have to pay allegiance to me, Bishop Sava, and Bishop Gregory. Only those persons who were in the parishes in those three dioceses are, in my opinion, members of the Serbian Orthodox Church in America.

7821 If a person has been baptized in the faith, taken his communion, been recommended by the church congregation and accepted and agrees to pay dues, he becomes a member of that congregation and automatically a member of the Diocese of the Serbian Eastern Orthodox Diocese of the United States of America and Canada. This is the way it was up until
7822 1963. Those living in the parish are parishioners and members are those who pay membership dues. To
7823 be a member you had to pay dues and the members were the ones who were elected the delegates to the Church National Assembly. In order to hold any
7824 office on the diocesan level, you had to be a dues paying member of the congregation. Before you could become a dues paying member a person had to be a member of the Serbian Orthodox faith. Dues paying
7825 members of the congregation of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, who continued in the various parishes to pay their dues until the present time, are no longer members if they have not elected to follow the decision of May 10, 1963 recognizing the division of the diocese into three dioceses, with Bishops Gregory, Sava, and myself as Bishops. If this property were

turned over to me, these people would have the right to use it only if they returned to the church and recognized the decision of May 10. Some of the priests who
7826 have elected not to obey the decisions of May 10, 1963 have been defrocked. Some have not. Bishop
7827 Irinej was defrocked by Bishop Gregory, and he did this as Bishop of the Western Diocese. I don't think Bishop Lastivica defrocked anybody. I did not defrock anybody as Bishop of the Midwest American
7828 Diocese. I suspended a number of priests as Bishops of the Midwestern Diocese. In 1969 I changed my
7829 procedure and started defrockment procedures in the name of the temporary administrator of the American-Canadian Diocese. I did not revoke any of the
7832 suspensions that I made as Bishop of the Midwest
7833 Diocese. A priest may be kept under suspension for only one year and at the end of that year they were automatically lifted. They were not priests then because they didn't recognize the authority of the
7836 church. Gregory, Stefan and I were proposed as Vicar Bishops by Bishop Dionisije in 1962. I am a
7840 Monk. Balach was the only Monk living at Libertyville in 1962.

7845 I don't think Mr. Devrnja's charge concerning homosexual Monks was directed at me. At that time Bishop Dionisije was not considering anybody else for Vicar Bishops. Balach and Irinej could have been considered. If the charge is referring to me, it is false. It is false if it is referring to Bishop Lastivica. If it is referring to Bishop Irinej, it is false. I don't wish to express an opinion with respect to Bishop Balach.

7852 In my Deposition I testified that the first notice I had was a letter from the Holy Assembly advising

that the diocese had been divided into three parts and that I had been appointed Administrator of the Midwestern Diocese. I received this on May 26, 1963.
7855 I never received any document addressed to me as Administrator of the American and Canadian Diocese. When Bishop Dionisije was suspended on May 10, no Bishop was appointed as Administartor of the American-Canadian Diocese. I don't know of any case in
7856 the history of the church where there has been a suspension or a vacancy of a Bishop in a Diocese and his administrative duties have been replaced with anyone other than a Bishop. The appointment of
7859 an Administrator of the American-Canadian Diocese in 1920 was given to Bishop Nickolai and Archmandrite Mardary was his assistant. Patriarch German
7863 took over dispensations of a Bishop on June 13, 1963.
7866 The three newly appointed administrators on May 11 would perform the functions of a Bishop.

7867 Three of us consecrated a church in Cleveland which may be consecrated by clergy according to an authorization of higher authorities. Later when we were consecrated Bishops, we did it again. In my opinion, its canonically proper for someone less than a Bishop to be appointed administrator of a diocese.
7868 I can cite no Canon to support my opinion.

7870 After Bishop Dionisije had been defrocked, the old American-Canadian Diocese embraced the same territorial limits as the three new dioceses and he did not turn over that diocese. I do not know of any
7875 example in the history of the Serbian Orthodox Church where one diocese overlapped or was embraced within the same territorial and geographical limits of another diocese.

(DX 4 and 4a are admitted in evidence.)

7876 DX 205a and 205 are letters addressed to the Holy Synod which I sent. I believe the Synod sent a letter to the Bishops in Yugoslavia concerning this. I have never seen DX 206 before. I have heard that a letter
7877 did go out. I did not receive a copy of that letter.
7879 There was some mention of the letter in the Observer. I wasn't informed of what took place at the meeting of the Synod. DX 207 is a communication of the
7883 Synod which was sent to me. The proposed decision
7884 of the Synod was not thereafter enacted by the Synod. I don't remember if I have a copy of the July 29, 1967 letter referred to in this exhibit. DX 207a is in
7886 Serbian and 207b is the enclosure that Father Muldinovich sent me.

7891 (DX 205 and 205a are refused.)

7896 (DX 206 and 206a are refused.)

7900 (DX 207 and 207a and 207b are refused.)

7913 BISHOP FIRMILIAN testified as follows:

Cross Examination.

7937 (The Court refuses an offe rof proof) When I went to New York after leaving Chicago Bishop Dionisije
7939 sent me some money. I used my savings while I was
7944 in Chicago. (The Court refuses an offer of proof). (DX 190 is admitted). Members of the church who
7963 did not recognize the decisions of the Assembly left
7979 the church by their own action. These people have not been excommunicated.

7985 I signed DX 202 as a member of the diocesan council and from the diocesan council I signed as a mem-
7986 ber of the board of directors.

At the time I issued the call for the Sabor in May 1964 I did not issue it as administrator of the Ameri-

7988 can-Canadian Diocese; I issued it under the three new dioceses.

Redirect Examination.

I recall testifying about PX 145, the provision about the diocesan plenum being given the power at the Sabor in 1960 to make additions and changes in the constitutions. I was aware that a committee met although I was not a member. This committee was
7989 to report back to the plenum. The plenum would re-
7992 port to diocesan national assembly (Sabor). The minutes of the 1960 Sabor indicate that the plenum was not a report back to the Sabor but was to send the amendments to the Holy Assembly of Bishops for approval. This resolution was adopted by acclamation.

7995 Bishop Nicholai was bishop of this diocese and
7998 Mardary was his administrator in 1923. When Nicholai resigned the Patriarch assumed the bishopric of
7999 the diocese and Mardary remained as his assistant. Mardary in the administration of the diocese would do all duties except dispensations and blessings. From
8002 the very beginning of the diocese until 1963 there has always been somebody the rank of bishop either as bishop of the diocese or as administrator of the dio-
8006 cese. (DX 209 and 209A are admitted in evidence).
8011 No dioceses in Yugoslavia have their individual constitutions.

8012 FIRMILIAN OCOKOLJICH testified as follows:

Examination under Section 60.

8013 In 1957 when I left the monastery and went to Chicago, Bishop Dionisije was aware of where I was going to be staying. I believe at that time Father

Mijatovich came from Libertyville in connection with question with Rev. Mitrofan Kresojevich and both came to Chicago where we had a conversation. This occurred a few days after I left. While I was staying at the YMCA for about three months, I went to the University of Chicago library to read and suffered
8014 from some sinus problems. I was not working on my doctorate at that time as I had already received it.

Cross Examination.

When Mardary was appointed as administartor of the American-Canadian Diocese he held the rank of Archamandrite. At the time he was administrator,
8015 the diocese did not have a bishop.
8019 (Offer of proof.) The situation was the same in 1963 before and after May 10th as when Archamandrite Mardary was appointed administrator of the American-Canadian Diocese. (End of the offer of proof.)

8021 IRINEJ KOVACEVICH testified as follows:

8022 *Direct Examination.*

My name is Irinej Kovacevich and I reside at Shadeland, Pennsylvania, but for the last few months have been at the Monastery in Libertyville. I was born on September 6, 1914 in the Village of Vrncani, Yugoslavia. I attended grammer school and gymnasium in that area. I then attended Teacher's Col-
8023 lege in Negotin and graduated in 1935. Thereafter I went into the army as it was required by the laws of the country. I became a lieutenant in the army and
8024 after I came home I applied for a teaching position and was appointed to the same public school in which

I had completed my studies. I taught there for three years and then went to Belgrade to enroll at the University of Belgrade, Department of Education. I was enrolled there and in the fall of 1939 there was an appeal from the government for students who were educated in mathematics to enroll in the military service. I volunteered and was appointed in Sarajevo as an instructor in a school for officers until the war broke out in April of 1941. I was involved with
8026 new equipment in the area of anti aircraft and after I had learned about it I began teaching it to others because this was just before the war started and our country was surrounded by Germans and Italians and our only friendly border faced the Greeks. The war broke out in April of 1941 and was quite short in duration as Yugoslavia, which is the size of the State of Indiana, was attacked by the Germans and Italians and cut off from supplies and allies. I was
8027 taken as a prisoner to Germany in September of 1941 and remained in a number of prisons camps until April of 1945. The camp in which I had been held in
8028 April of '45 was liberated by the British and there were no cities nearby as it was in the mountains. I had escaped just before the British arrived and we all went to the same camp where there was action to return all the prisoners to their native countries. And I thought I would go to prison in Yugoslavia. I chose to remain in a refuge camp with the British Army until they offered me a position to work. I
8030 remained in the refuge camp until the fall of 1948.
8031 My duties were that of a dishwasher in the kitchen of one of the army units of the British Army and I was paid food and clothing, but I do not remember whether a salary was included. In the fall of 1948

I was selected by someone to go to England to Dorchester College which is close to Oxford. There were five of us sent at that time. At Dorchester College
8032 we spent the next year studying theology and at the end of that time a representative of the Episcopal Church of America came to the college and asked me whether I would accept a scholarship to finish my theological studies at St. Vladimir's Seminary in New York. This was in 1949. I agreed and came to
8033 New York in December of 1949 and went to St. Vladimir's Seminary and finished the next term which ended in June of 1950. Then I came to the Monastery in Libertyville for two months of summer vacation and worked there in the summer camp with Bishop Fermilian and others. Then I went back to study, enrolled both at St. Vladimir's Seminary and at Columbia University. This was all done through the goodness of primarily the Canon West with whom I dealt and who provided scholarships and payments for all the credits we took at Columbia University. I graduated from Columbia in 1952 and enrolled for a master's degree at Columbia while continuing at the same time at St. Vladimir's. In June of 1953 I received my masters degree at St. Vladimir's. My
8034 trip to the monastery in Libertyville in June of 1950 was my first visit there. I continued to come to the
8035 monastery in the summer for summer work during 1950, 51 and 52 until the fall of 53. When I came in 53 for summer vacation I remained there and became a monk. I did not complete my master's program at Columbia because I did not fulfill the requirement of 2 credits in a foreign language.

8036 I did complete my thesis and the subject was "The theological signifiance of the Iconclastic contraversy". I was ordained a monk by Bishop Dionisije.
8037 I remained at the monastery as a simple monk and in the month of December I was ordained a deacon and after that a Hieromonk which is the same as a priest. I was assigned to the monastery to serve in the monastery church for the people who lived in the area. I remained there I believe until June of 1955 when I went to Shadeland. Shadeland is located in
8038 Pennsylvania about 25 miles south of Erie. Bishop Firmilian was at the monastery part of the time between '53 and '55 but I am not exactly certain when he left. We discussed the need of someone to go to Shadeland and as I was afraid to take on anything that big. Archimandrite Firmilian went and I promised I would come to help him anytime he needed me.
8039 Bishop Firmilian asked me to come down and help him out in 1955, so I went and when he was supposed to take me back to Libertyville I saw that he was packing his own things. When I asked him what had happened and where he was going he replied "You know, you are going to come back here; I am going to Libertyville." This is the first time I had heard about this. After we got to Liberytville I received orders from Bishop Dionisije to go to Shadeland and take over the duties there and that Bishop Firmilian would remain in Libertyville. My duties at Shade-
8040 land were that of an administrator. The estate has about 1400 acres and ten buildings of which only two were used. One was where Bishop Firmilian lived and the other in which the old men lived. These were old men who were unable to work and were mainly sick and who had come as refugees from Eur-

ope. The rest of the buildings were in disrepair. Some of the old men staying at Shadeland had been in this country for 50 or 60 years and in their old age had come to stay. The buildings had been on the property
8042 at the time Bishop Dionisije had purchased it in his own name and before he sold it to the Diocese. At the time I arrived at Shadeland in 1955, it had been purchased by the Diocese from Bishop Dionisije.
8043 When I arrived, there were only two old timers at the property and about 25 to 30 refugees from Europe.
8044 The refugees consisted of old men with the exception of a few younger men who were disabled and unable to work.

8045 Our staff consisted of the cook, for awhile, Father Mitrofon Kresojevich and myself, of course. The thirty to thirty five men were mostly able to take care of themselves except when they became ill. We also had a priest by the name of Paul Markovich who had been with Bishop Mardary at the Monastery and who was a very old man. I believe Bishop Firmilian took him to Shadeland and we took care of him in our home where we lived until he died. He remained in Shadeland for a couple of years. He was
8046 bedridden when I got there and remained so the entire time until his death.

8047 Mitrofon Kresojevich whom I mentioned is referred to in PX 16, page 15. He was at Shadeland helping me during all of the period that I was at
8048 Shadeland and went to churches which did not have priests to serve on Sunday. He was a priest at that time but acted as my assistant and worked at Shadeland. He was there when I arrived and therefore was there while Bishop Firmilian was the director. At

the end of the two year period Kresojevich was assigned to a parish, but then would come back and stay for six months or so depending on where he was needed or assigned. He performed a number of duties
8049 during the two years he was under my direction working at almost everything that was given to him. He scrubbed floors, washed laundry and everything and kept the home practically in shape all by himself. He worked both in the home that I and the elderly priests occupied and the other home where the old men were living. He took care of the bedridden priest permanently, and I thought he treated him better than any son would treat his father. During the time that he
8050 was under my direction and performing the functions that I have told you about at Shadeland there were never any charges brought against him by anyone concerning his conduct.

8054 I do not know where Father Mitrofon went after he left Shadeland but I have had contact with him since on many occasions and I know that he is now in Elizabeth, New Jersey and has been there for perhaps a year. He now has a parish there but I do not know where he was immediately prior to that. It is my understanding that he has been acting as a parish priest someplace within the diocese since he left Shadeland in 1958. Since I have been a Bishop in
8055 this diocese I have not heard of any further charges or further incidents in connection with this priest. I remained as director of Shadeland until the month of December in 1961. Between 1955 and 1961 while I was director, an overall plan as to the use of the Shadeland property could be used for was adopted to include a home for the aged.

Secondly, a summer camp for children was organized and finally a new church was built. At this time also the home in which the old men were living was condemned by the Labor and Industry Department and I had to remodel that building which contained 32 rooms to have it approved for residence by the sick and old men that were there. We also put in a man made lake to have a place for fishing and swimming for the children. During this period also mortgage payments had to be made. DX 210 for identification is entitled Shadeland and is a souvenir book covering the period 1951 to 1962 which was prepared in 1962 after I left. It was prepared by Father Velimir Kovacevich in 1962. I am familiar with this document and can state it accurately sets forth the history and development of that property and the improvements made thereon between the periods it purports to encompass.

From Shadeland I went to Jackson, California which at that time was only a piece of property purchased on a mortgage and is now known as St. Sava Mission. I remained there permanently until 1963. When I was assigned to Shadeland I was only a Hieromonk but in 1957 I was elevated to the rank of Abbot or Iguman as it is called in our church. In December of 1961, before I left for California, I was elevated to the rank of Archimandrite in a church service performed in the cathedral of St. Sava in New York where Bishop Fermilian was already an Archimandrite at that time. I remained an Archimandrite until December of 1963 when I was consecrated Bishop at St. Sava Monastery in Libertyville after an election by the church national assembly in November of 1963. This is the church national

assembly of the Serbian Eastern Orthodox Diocese of the United States of America and Canada which was held in November of '63 at the monastery property in Libertyville. The delegates to that Assembly were regular delegates to the tenth church national assembly of the diocese composed of all the clergy, the president of each church-school congregation and a delegate elected by each church congregation for that purpose. There were also five delegates from the Federation of Serbian Sisters. There were also prominent people engaged in the cultural national charitable and other works within the Diocese and some other guests from other churches who were not voting members of the Sabor. I am able to cite an example in the history of the Serbian Orthodox Church whereby a Bishop has been elected by the clergy and laity or by the people of the church similar to the method of election that I told you about myself. After 1766 when the Serbian Patriarchate was abolished, Dioceses and Metropolia that today are a part of the Serbian Church were doing this for 150 years; for instance, the Diocese of Sarajevo which is Bosnia was under the jurisdiction of the Patriarch of Constantanople, and in 1855 the church National Assembly, for instance, elected Metropolitan Prokopios and as his Vicar, Bishop Antin, and they were consecrated by the Patriarchate of Constantinople. Then in 1860 Metropolitan Dionisije and his Vicar Bishop Sephronios were elected and so consecrated. There is an example of a Bishop Sava Cosonovich, who in 1879 was asked by the Patriarch of Constantinople to be consecrated, but he would not accept the consecration until election by the people and clergy of his Diocese was performed. At the present time we have an ex-

ample in the Macadonian Church where Bishop Klement was first elected at the Church National Assembly of the Macadonian Church and after that was consecrated by his Holiness Patriarch German and Bishop of Bachka, Nikanor and Metropolitan of Macadonian Church, Dositje. This occurred in 1958
8071 of 1959. Election of a bishop is distinguishable from consecration.

8072 Consecration has never been done by lay people. To perfect the consecration of a bishop, it is required that he be consecrated by at least two canonical bishops. In order to be considered a canonical bishop, it is necessary that the bishop be of a recognized
8073 autocephalous church. The term "apostolic succession" is connected with the hierarchy of the Orthodox Church. It is connected with the consecration of the Holy Sacrament of Ordination. It started from the apostolic time when Christ laid his hands upon his apostles and told them to receive the Holy Spirit. The apostles also did the same thing to their successors and on down the line in the Orthodox Church; that chain has never been broken and this transsuccession
8074 of the reception of the Holy Spirit is the so-called apostolic succession. There is no requirement in the Serbian Orthodox Church that these two bishops consecrating the third bishop be Serbian bishops. St. Sava was not consecrated by the Serbian bishops. There are many examples. They have to be Orthodox bishops and they must be in the line of succession, but they do not necessarily have to be from the Serbian Church. I was consecrated in December of 1963 by Archbishop Genady and Archbishop Gregory; bishops of the autocephalous Polish Orthodox Church.

8078 The term hierarchal is used differently in the Roman Catholic Church and the Orthodox Church and in the Protestant Churches. What the Orthodox Church is is stated in the creed: it is one, holy, Catholic and apostolic church; one because it is one Christ who is the founder of the church; holy, because the Holy Spirit is the one who governs the church; catholic is not what is today known as Roman Catholic. The word "katholiki" is a Greek word used to characterize the church in the second century by St. Ignatius. It is difficult to explain what it means, but generally means that the church is of a spiritual nature by which it is not confined either to a single place and the church is open to all including those who have passed away and those who are to come. Apostolic was explained in my previous answer.

8080 The hierarchy of the Serbian Orthodox Church is
8083 the deacon, priest and bishop. The tasks of each of the ranks in the hierarchy are prescribed by the church and each is the same for all deacons. What they can do during services as to performing the holy sacraments are prescribed. In all orthodox churches their duties are absolutely the same. The duties of the priests, deacons and bishops are part of the internal affairs of the church that is the spiritual dogmatical things which cannot be changed. The internal affairs of the church are those things connected with the spiritual and dogmatic that is the teachings of the church that cannot be altered or changed by any Serbian Orthodox Church. These
8084 things are pronounced only by Ecumenical Councils. The holy sacraments for example are matters of internal affairs and are performed in the same manner in all orthodox churches while external affairs of the church are different in all different national ortho-

dox churches. External affairs are connected with administration and with the physical existence of the church in this world. These things can be changed or altered or regulated by each national church in the manner that they feel necessary. Matters of faith and doctrine are considered internal affairs of the church and that is where the orthodox church is strictly hierarchal. As far as the sacraments are concerned, there is no variance or can there be any from church
8085 to church as to their administration. In all orthodox churches, the Holy Sacraments and all matters that are called internal affairs of the church are performed in completely the same fashion except for the language in which it is served. There is not anybody above the level of bishop that can in any way alter or change the matter of sacraments or the matters of dogma and faith in the world of orthodoxy with the exception of an Ecumenical Council. In the history of the orthodox church there have only been seven Ecumenical Councils and the last was held at the beginning of the ninth century. In the matter of external affairs, the orthodox church is not strictly hierarchal; it is more congregational. For example in this diocese, the American-Canadian Diocese, a priest is not appointed by the bishop directly.
8087 He is first obliged to send his application through the bishop but is elected by the congregation. If say five priests apply, the one who receives a majority vote from the membership of that particular congregation is elected the future priest for that parish and after that the bishop approves his election and only after all this is he the priest of that parish.

8089 In the diocese in Yugoslavia priests are appointed by the bishop. The local parishes there have absolutely nothing to do with the selection or rejection

8090 of that priest. There is a difference between members of the church and the Serbian Orthodox people who live in the geographical territory around a given church. Members of the church are those who pay dues to the church and a certain amount of it to the diocese. The rest of the Serbian Orthodox people are called parishioners who do not necessarily contribute anything to the church; don't have any obligations; yet they can come and use the church for all the services that can be offered by the priest. In
8091 the American-Canadian Diocese prior to the controversy in 1963 the procedure for one who wanted to become a member of a church was that first he had to be over 18 years of age and make application to the executive board of the church. They would bring the application to a regular meeting of the membership and would read his name and state that he expressed the desire to pay his dues and be accepted. If there was no complaint that such a member was a bigamist, atheist, communist or some other thing he would be accepted by the members. In some instances and in different church congregations the by-laws may vary. After a period of time elapses the member is given the right to vote. No such practice
8092 exists in the dioceses in Yugoslavia. People in a Yugoslavian Diocese do not pay dues like it is done
8097 in this diocese. They do not have church national assemblies in the dioceses in Yugoslavia.

In matters of controversy between a parish priest and the parish, diocesan council is the body which has jurisdiction in the American Diocese to settle a controversy. In the case of ecclesiastical offenses the
8099 ecclesiastical court has jurisdiction. This practice of solving disputes and problems is phrased in the

Constitution of the Serbian Orthodox Diocese for the United States of America and Canada and has been in there since the Constitution was approved in 1928. Since I have been active in the Serbian Orthodox Church this practice has not been in effect in the dioceses in Yugoslavia.

DIONISIJE MILIVOJEVICH

Direct Examination (Continued)

I have page 15 of the indictment in front of me; the reference to monks similar to Kresojevich.

8128-30 (Counsel, the Court and the witness read page 10 of the Exhibit No. 180, the enclosure from which the charge in the indictment is drawn.)

8131 In 1962 I was proposing as my vicar bishops the present Bishop Firmilian, the present Bishop Dimitri from Australia and the present Bishop Gregory. According to my knowledge none of these three persons is a homosexual.

8132 I see the portion of page 16 related to "Dionisije's heterodoxy". I have no knowledge concerning this
8133 incident about a protestant woman. I don't remember any case similar to the one described here. Rev-
8134 erend David Popovich mentioned on this page died ten years ago. If a non-orthodox person will agree to accept the orthodox creed and to baptize the children in the orthodox faith we will perform the marriage. But they have to make this commitment in order to be married in church. This is a uniform
8135 procedure for mixed marriages in my diocese. I
8136 would not permit a person to enter the orthodox faith only by reading either in English or Slavic a prayer. The charge about a Czechoslovakian is false. The
8137 statement about a priest in Minnesota is also false.

Hieromonk Tepshich was accepted as a student in our theological school in 1944. Then he became associated with the Episcopal priest, serving Holy
8138 Liturgy and receiving communion with them. He was
8139 defrocked. DX 204 is his letter of resignation. (DX 204 is admitted in evidence). I don't know where
8140 Father Tepshich is. DX 211 is a letter from Father Tepshich dated March 17, 1967 which I received from
8141 him. (Counsel notes that letter from priest Tepshich indicates that he went to Europe and that the Patriarch took him into a monastery and that this letter is a very friendly and respectful letter to the bishop
8142 from this young priest. Court refuses the exhibit).
8143 The priest Petkovich referred to on the top of page
8144 17 died about 15 years ago. I knew him. I did not convince him to marry after ordination. When I
8145 got a letter from him I forbade him from church duties. The church congregation defended him and we had trouble for six months or one year. He mar-
8146 ried after his ordination. He was defrocked later on by the ecclesiastical court. Mladen Trbuhovich is a priest at the present time somewhere in the Eastern American Diocese. The next charge refers to newspaper "Free Word". Danilo Kozomar has been dead
8150 for 15 years or more. Danilo Kozomar was a priest. The indictment enclosure says that his wife died.
8151 I looked for documents somewhere and the cemetery where this woman is buried. Only the leftist "Free
8152 Expression" objected when I elevated him to Archi-
8153 mandrite. (DX 212 and 212A indictment enclosure are admitted in evidence). (Counsel states to the Court that with reference to the next charge about ordaining a chemist that he has checked the enclosures DX 180 and 181 and there are no names given

to identify anybody). I don't know who they are talking about. I made many ordinations during my thirty years and I don't know which one they're referring to.

I will read DX 5, declaration signed by Father Brkich. I have read the charge on page 17 about Reverend Brkich warning me. I did ordain Father Vavich as a priest. I recall discussing it with Father Brkich. He recommended that I ordain him as a deacon only. Brkich said that Vavich is sick, being an epileptic. I made an investigation about his sickness and doctors found that he is not epileptic; that he had some other kind of sickness and I made him a priest. DX 169 is two reports from doctors dated October 29, 1959 and November 30, 1959. These are the reports I referred to. (DX 169 is received in evidence). The two paragraphs on page 17 beginning "Bishop Dionisije does not care for canonical rules" and the next paragraph beginning "about the same event" are false. I have never transgressed against my monastic rules before the Holy Liturgy. Prior to serving Holy Liturgy we read some prayers and the Holy Canons. We abstain from food or drink all night and all morning until the Holy Liturgy is finished. After midnight we have nothing to drink or eat until the service. I was never examined about my orthodox life and beliefs by anybody. I note something about the charge in page 18 concerning a priest in Indianapolis. The parish didn't have money to build a new church and I permitted them to have church services in the church hall until they might build a church building. This is no violation of any canons of the church.

The next charge concerns praying for Stepinac. The Communist regime condemned Archbishop Stepinac of Croatia and they condemned him because he renounced their authority. When they condemned him I raised my voice to him, condemning the Communistic regime and defending Stepinac and defending anyone who is fighting Communism. Bishop Stepinac is a bishop of the Roman Catholic Church. It was my duty to speak out as I did. Roman Catholics are Christians and as Archbishop of the Roman Catholic Church he was condemned by the Communistic regime for not recognizing that regime. I have served with non-orthodox priests or bishops. I have served services with Episcopalians, Methodists and the Russian Orthodox Church under Metropolitan Anastasios. I was called to participate in the procession when the Episcopal bishop was ordained in Washington. I participated with Bishop Manning, the late bishop of New York. We consider that the Episcopal Church was properly and canonically established by the recognition of the ecumenical patriarchate in Constantinople. There is no violation of the canons to participate with the Anglican church. The Methodist church also has bishops. I had communion connection with them but I did not serve Holy Communion with them. There is no rule, canon or provision of the constitution of the Serbian Orthodox Church which prevents a bishop from owning property in his own name. I see the reference in page 19 to Bishop Nicholai. I never heard that statement of Bishop Nicholai that is quoted there. This is the same Bishop Nicholai who came to the United States and died here. I did own some property in Los Angeles. I purchased it with my own funds and

later sold it. I never had any property in California with buildings on it. I've never owned any property in Waukegan. I owned some property in Libertyville, 19 acres, which I sold to the monastery without any increase in price. Both Bishop Firmilian and I and Reverend Brkich bought approximately 100 acres of land in Canada. I sold my interest and I don't know whether Bishop Firmilian and Father Brkich sold theirs. With my priest, Reverend Stojanovich, I bought around 100 acres of land near Niagara Falls. I sold my part to him. I purchased some property in Lake Villa, a nursing home. Later I shared it with Mr. Stokovich and finally I sold him my interest. It was five to ten years ago I sold him my half of it. I sold him half of it to make payments on the Shadeland property in 1950. Later on I sold the other part of it. I have read the paragraphs on pages 19 and 20 regarding Shadeland. DX 213 is a copy of the agreement between myself and Standard Life Insurance Company for the purchase of Shadeland for $40,000.00. I was in a situation of bringing from Europe displaced Serbs and I needed a place to bring them. There were many thousands of them over there in Germany, in Austria and in Italy. One evening the president of that corporation called me. He told me he knew I was looking for a place for displaced Serbs and he told me about the Shadeland property. We went to that property and there were 1,300 acres of land available. He offered to donate $1,500.00 toward the purchase price of $40,000.00 and take payments of $2,500.00 over the first five years. I agreed to sell it to the diocese as indicated in DX 202 for a total of $60,707.09. We had two meetings of the diocesan board and they asked me to transfer the property to the diocese and I agreed for the same

price, the amount which I paid for it, and for the money which I invested in it. I invested $20,000.00 in it. I sold my Lake Villa nursing home to Mr. Stokovich for $20,000.00 and invested that in the property at Shadeland. The council bought it for my expenses, without any profit. DX 201 and 201A are the minutes of the committee for Shadeland Farms and it sets forth the investments for improvements that I made. I did not make any profit on the sale. (DX 213 is admitted in evidence).

I've read the paragraph on page 20 about the auditing committee. In 1962 I supervised the financial books of Shadeland. From the time the diocese bought the property we formed the Shadeland committee that took care of it. Then in 1962 we bought another property in California and the people there wanted the present Bishop Irinej who was in charge of Shadeland to be transferred to California. I put in his place at Shadeland two men and I came every month once or twice to look the property over and look at the books. The auditing committee which we headed looked at the books in January, 1963 and they found it satisfactory. DX 22 is a report of the diocesan control board dated January 17, 1963 signed by the president, Milan Radakovich. Until 1962 Bishop Irinej had been at Shadeland. Every year the auditing committee looked at the books. Father Grozdanovich was at Shadeland until he submitted his resignation in 1963. (DX 22 is admitted in evidence).

PX 25 is a copy of the auditing committee's report for the period ending July 15, 1963. I did not misappropriate any funds from the Shadeland property. I gave donations many times to the Shadeland property. The $2,331.00 referred to on page 20 is the

Patriarchal Relief Fund. I founded it to help the Metropolitan Damaskin delegation. This money was
8204 sent to different churches in Yugoslavia. DX 214 is a list of the expenses for which the fund was used. (DX
8205 214 and 214A are admitted in evidence). Regarding the next charge, I sent a total of $2,300.00 to Metropolitan Damaskin, the bishop of Bachka and Bishop
8206 Vasilije. The rest of the funds were used for ex-
8207 penses of the delegation in the United States. Mrs. Polich sent me $400.00 and I did not charge the diocese for my expenses. For the period 1940 to 1945 when I traveled I did not make any charge for
8208 travel expenses. From 1945 on I did. When anybody at the diocesan level traveled their expenses were reimbursed by the diocese or the church congrega-
8209 tion where they were going to visit.

DX 215A, B, C, and D refers to the incident charged on page 21 of the indictment with reference to per-
8210 forming a marriage. (Exhibits are offered and received). I've never asked for or accepted any money
8211 with the promise of ordination of any priest. On page
8212 22 I see the reference "Bishop Dionisije is born as
8213 an intriguer" and this is not true. I knew both
8214 Duchich and Fotich during their lifetimes. Duchich died in 1943 and Fotich in 1960.

The charge concerning Bishop Nicholai and Bishop Irinej is false. I received both of these bishops as immigrants from Austria after World War II. I
8215 never threw either of them out of the monastery. Bishop Nicholai did not live in the nursing home that I owned when he was sick. After our church national assembly in 1952 he made a proposal for three or five bishops for our assembly and the people would not accept it. So he packed up and went to New York and from New York to South Canada to the Russians.

His proposal was that we break away from Belgrade. I was not in favor of that proposal at the time. In
8217 1957 Reverend Firmilian went to Chicago and lived in the YMCA. I called the ecclesiastical court to session and we spoke about this and decided that one priest should go and see Reverend Firmilian. He had proposals and agreements with St. Vladimir Seminary to be a teacher and they accepted him. I released him to go there and gave him my blessing. He left the monastery in 1957 without my permission.
8218 He did not prior to leaving say anything about being ill.

The next charge is about Sava Mikovich. He resided at the monastery. He wanted to go to Yugoslavia to die and he submitted an application and I
8219 gave him permission to go. The next charge concerns Reverend Radovonovich who I knew. This
8220 charge is false. He was working in our office but he was also parish priest of our Libertyville parish. Then he became parish priest of Racine and started to build the church. Finally I asked him what he wanted to do—stay here or be parish priest in Racine. He wanted to go to Racine so I appointed him. He
8221 went there and died later. The charge concerning Reverend Jelich is false. He is a very good priest who wanted a bigger parish. He is presently in
8222 Youngstown, Ohio. I appointed him to Youngstown as parish priest and he is still there. There is no truth in the next charge about executive board members. There is no truth in the next paragraph by the Association of University Educated Theologians. The
8223 charge on page 24 concerning the South St. Paul Parish is not true. People from South St. Paul threw their priest out. I defended him two or three times,

but later they closed the church and said they would keep it closed if he remained. Our Ecclesiastical
8224 Court brought judgment against the priest. This incident happened in 1956 or 1957. He became an insurance agent. The priest at South St. Paul, Rever-
8225 end Djurich, is the same person who has made charges against me in the indictment. The next paragraph on page 24 concerns the priest in Indianapolis that I sent Reverend Burkich to investigate. The people did not want him to be their priest. I followed the recom-
8226 mendation of Father Burkich and removed him. This
8229 priest from Indianapolis who was discharged upon the recommendation of Father Burkich, also made charges against me in the indictment. I read the
8232 paragraphs toward the bottom of page 24, where it says "Bishop Dionisije is a mental case".

8233 I have seen Stojan Lazarevich several times. I don't know whether he is a physician or psychiatrist. I don't know where he is now. He was a student when I was a Professor of Theology in Yugoslavia. He came to the United States later on. He conducted the choir in the church congregation in Gary, Indiana.
8234 He is a musician, not a musical doctor. Steven Prostran died several years ago. He is not a medical doc-
8235 tor. Dr. Seferovich mentioned on page 25 has never been my physician. He served on the Diocesan Council as member and vice-president. I have never had occasion to go to him for treatment, and he has never given me any type of physical or mental examination. I have never, to my knowledge, suffered from any type of mental disorder. I have never consulted a
8236 psychiatrist. My physician is Dr. Lawrence Day in Libertyville. He has been my physician for ten or
8237 fifteen years. The charges are false. (Counsel notes

that the next pages of the indictment are conclusions attributed to various persons and there is nothing that the Bishop can either affirm or deny.)

8239 I know of no Reverend Prostran other than the one I have mentioned who is dead. Reverend Paul Zelich, mentioned on page 25 is dead. I don't know of another Stojan Lazarevich other than the man I have mentioned. I know Momchilo Djuich. He was
8240 a priest who decided to become a lay person when he was a Chetnik or something like that. He was a priest in Dalmatia in Yugoslavia, and never a priest in America. I had personal contact with him until 1956 or 1957. His organization supported our fight against the Regime in Yugoslavia. I may have had contact
8241 with him in the beginning of 1963. At that time he renounced King Peter and accepted his brother, Tomislav, as the King of Yugoslavia. In April or March,
8242 1963 he came with some group of people to throw us out of the Diocesan Council meeting and take the diocese into his own hands. He published his change of allegiance in his newspaper.

8243 PX 216 and 216a are my circular letter dated June 1, 1962. This is the letter which is referred to at the top of page 30 of the indictment.

8244 (DX 216 and 216A are admitted in evidence).

8245 I never wrote any article of separation of the Serbian Orthodox Church and the Canadian Srbobran as charged on page 30. I wrote an article about the arrival of the delegation and recommended receiving the delegation all over the United States. The charge
8246 that I wrote an article announcing a split in the
8247 church is false. The charge that I behaved toward the delegation with sarcasm and calculation is not true. It is not true that I criticized them publicly and pri-

vately. I did not issue orders that the delegation be treated other than cordially and proper. I did not issue any leaflets against the delegation. I did say openly in a few gatherings that we as American citizens and the American Diocese are not obliged to listen to the Government of Yugoslavia. We respect our church over there and our delegation who are arriving here, but we are free and loving people, and obedient to our Constitution. I went with the delegation to the Chicago airfield, brought the tickets to them and I paid for their baggage and said goodbye, and that's all. I did not say "let them go to their Tito". I was never in New York with them.

(Counsel stipulates that PX 195 is the report of Metropolitan Damaskin produced by Bishop Firmilian after a trip to Yugoslavia). The first time that I saw the report of Metropolitan Damaskin is today. I have not had a chance to read it. (DX 217, the English translation of PX 195, Damaskin's report, is admitted into evidence). The June 3rd letter referred to on page 30 of the indictment is the letter which has already been admitted as PX 71 and PX 84b. PX 74 is the letter of May 25 referred to in the Indictment on page 30. These two exhibits, PX 71 and PX 74, set forth my position with reference to the illegal and uncanonical decisions of the Assembly.

PX 78 is my letter of June 28 which is referred to in the indictment. In this letter I explained how they arrived to ordain Reverend Lastivika for Bishop and later on to investigate some charges against me. I see the charge in the middle of page 31 regarding the decision of suspension. PX 78 is the letter to which the indictment charge refers. I declared to the Investigating Committee on July 5 that I am not the Bishop

of the Midwest Diocese and I would not sign any minutes which they were preparing in that respect. I did not release my duty to Reverend Firmilian on June 6, because the Diocesan Plenum decided not to relinquish the Diocese until the Assembly in September. I discharged Firmilian from his duties on June 7. On June 12 I discharged Reverend Burkich. I also discharged Reverend Klippa. They were discharged because they abandoned our Diocese and they violated the Holy Canons. They had to be loyal to our Diocese and to me until a trial could be completed against me. These three priests violated Canon 13 (DX 199) of the Pedalion.

On June 6 there was a meeting of the Plenum of the American-Canadian Diocese in Libertyville. I am familiar with the actions taken by the Plenum on that date. The discharge of these three priests was because they renounced me as Bishop.

DX 218 and 218a is the report that I sent to the Synod regarding the visit of Damaskin delegation in 1962. DX 218 is the English translation. I waited for Metropolitan Damaskin to make a joint declaration but he declined so I prepared my own at the end of December, 1962. (DX 218 and 218a are admitted).

(Counsel for plaintiffs stipulate that the "Rudder" is an authentic compilation of Canon Law). (DX 199, Canon 13 is admitted in evidence). DX 199 is a Xerox copy of pages 469 and 470 of the "Rudder", a compilation of all the sacred and divine canons of the Orthodox Church.

I have the bottom of page 32 of the indictment before me. I testified about this alleged meeting with Bishop Hrisostomos before. I was never called by him for any conference. The top of page 33 there is

a reference to Reverend Petrovich. He is a priest at the present time in Cincinnati, Ohio. He first came to our diocese five or six years ago. He brought documents that he had been a priest in Europe. This is not the only priest that I have accepted into my Diocese from Europe since I have been Bishop of this Diocese. I have accepted approximately 35 ordained priests in the 23 year period from 1940 to 1963. I see the paragraph on page 33 referring to my oath. I did not violate my Bishop's oath. DX 219 is a correct English translation of the oath I gave when I was elevated to the rank of Bishop. PX 37a is in the old Slavic language and it is in my handwriting. DX 219 is my English translation. (DX 219 is admitted).

Prior to the decision of July 27, 1963 wherein the Holy Assembly declared that I had broken my oath, there had not been any trial of the charges that were pending against me. There weren't any hearings. I received the indictment sometime in October. I did not receive any supplement to the indictment. I did request the enclosures and that was denied. (Counsel notes that the paragraphs on page 13 of the Judgment numbered 6, 7, and 8 are mentioned for the first time in the Judgment and do not appear in the Indictment) (Counsel notes that the allegations on pages 18 and 19 of the Judgment do not appear in the Indictment nor in the enclosures) (DX 5 and 5a are admitted in evidence) (DX 14 is refused) (DX 58, a through e are received in evidence) (Court admits Defendant's Exhibit 61, 67, 68, 69, 70, 71, 73, 74, 75, 77, 78, 79 and 198, and their Serbian counterparts.) (DX 220 and 220a are admitted in evidence.)

I have been a citizen of the United States since 1946. DX 19 is the letter that I wrote to the Synod on November 18, 1963. DX 200 is a letter to me from

the Synod dated June 19, 1958 and the Serbian is 200a. I received it shortly after the date it bears. (DX 200, 200a and 200b are received into evidence) DX 221 is a true and correct copy of the original document transferring the mortgage and certain property from the Serbian Eastern Orthodox Diocesan Council to the Serbian Eastern Orthodox Diocese for the United States of America and Canada, a Religious Corporation. The signature appearing on page 4 is that of Reverend Firmilian, secretary of the Diocese. (DX 221 received in evidence). DX 222, a certificate dated September 8, 1941, is a true and correct copy of the certificate and my signature, and that of Reverend Firmilian appears on the exhibit. (DX 222 admitted in evidence) DX 223 is a true and correct copy of certain Resolutions of the Board of Directors of the Serbian Orthodox Monastery of St. Sava dated May 22, 1961. The second page is the Resolution adopted. The signature on the bottom of page 1 is Reverend Balach, at the present time our Bishop in Australia. (DX 223 admitted in evidence) DX 224 is the English translation of a letter dated July 8, 1946 to me from the Synod. It is signed by Metropolitan Joseph and bears the seal of the Synod. Reverend Gacinovich was a Serbian Priest in Pittsburgh. (DX 224 and 224a are admitted in evidence)

At a time a priest in the Serbian Orthodox faith is ordained, he takes an oath to his Bishop that he will be obedient to the Bishop as to Christ. When he takes his oath the priest does not swear any allegiance to the Holy Assembly of Bishops, the Patriarch, or the Holy Synod.

I can give examples of Bishops who have been either excommunicated or defrocked. Archibishop Daniel was expelled from the church and defrocked in

1271, Patriarch Jeremias in the Sixteenth Century who accepted unity with the Roman Catholic Church was expelled from the Serbian Church. Archibishop
8371 Paul was defrocked in the Sixteen Century. In the
8372 Nineteenth Century Metropolitan Michael and three other Bishops were defrocked and expelled at that time because they did not agree with some action of
8373 the Serbian Government. In 1922 Bishop George was defrocked and sent to the Monastery to live as a Monk.

8381 IRINEJ KOVACEVICH testified as follows:

Direct Examination continued.

8383 After the Sabor in 1963 I became a president of the Board of Directors for the Shadeland Estate and became head of the Board of Ways and Means for the finances of the entire diocese. As president of the Board of Directors of Shadeland, I presided at all
8384 board meetings; directed all fund raising drives; supervised all the employed personnel; worked with the board on improvements, buildings, rebuilding everything that took place at the Monastery Shadeland. I still hold that position. The disbursement of all funds are decided upon at Board of Directors meetings. There are, however, some regular payments like payroll and telephone and utilities, the authority of which was given to the treasurer to pay as they come due, but all of the disbursements are decided upon and approved by the Board of Directors at their
8389 meetings. Considerable remodeling has been done on the Shadeland premises since May of 1963. This includes the two farmhouses and the old folks home. Remodeling included renovation of the outside and
8390 installation of a completely new interior. DX 225

is a photograph of the old folks home as it exists
8392 today. The barns and milking facilities were like-
8394 wise remodeled. Additional silos, garages and tool sheds have been built on the property. In addition a
8395 large number of machinery and farm equipment has been acquired. We also have a caterpiller bulldozer and two medium size trucks. We have cleared about
8397 140 additional acres of land and installed drainage
8398 tiles in several fields. Additional wells have been drilled and lines installed bringing water to the picnic area where it was needed. The wells are approximately 1200 feet from the picnic area. There is a new church under construction but it is not yet completed. To date we have paid a little over $47,000
8401 for what has been completed on the church and there is about $14,000 collected toward completion. These funds were not on hand prior to May of 1963. The funds which were on hand before 1963 amounting to $19,000 or $20,000 are at present in the possession of the Serb National Federation in Pittsburgh and have not been released to us for use in this project. They were collected for the church at Shadeland but have not been released. All the funds used for the
8402 church have been raised since 1963.

Most of the improvements made at Shadeland are a result of donations raised from different church congregations since 1963. We have also received a number of gifts for use at Shadeland. For example 400
8403 squares of galvanized roofing, each square being 10x10 feet. Every year since 1963 I have received between 25 and 50 tons of nitrogen needed for the corn on the farm as a gift. We have also received tons of
8404 hardware and fencing, heating oil and other things. The only restriction placed on these gifts by the

donors was that their names not be publicized. Contributions came from persons who recognize or pay
8405 allegiance to Bishop Firmilian, Stefan, Sava or Udicki. Shadeland is maintained for the use of all the people of the Serbian Orthodox Church. We have, for instance, homes for the aged which are open to all. In fact, four residents in the home for the aged do belong to the churches now under Bishop Sava. In fact Bishop Firmilian's nephew Father Balach from Pittsburgh brought a patient not too long ago who is a member of his church, but he is at the home.
8406 I have never refused anybody. No one has ever been refused either in the camp, the children's camp nor at any of the celebrations or to the home, the church or the chapel which exists today. The capacity of the children's camp is about 100 at any given time. During each summer since 1963 the average attendance has been between 400 and 500 children. I have very often seen people attending affairs conducted at Shadeland who I know to be faithful to and pay allegiance to one of the three new bishops. For example, half of the executive board of the church at Alquippa attended a Slava at Shadeland and were very friendly and conducted themselves decently. No one did anything wrong to them. A Slava is a yearly
8407 celebration of a patron saint at Shadeland. It is a public gathering. From 1963 to date the same policies and conditions with regard to the use of the premises to which I have just testified in Shadeland exist to the use of the St. Sava mission in Jackson, California. My connection with the St. Sava Mission in Jackson is that I was appointed director in December of 1961. From that time until the Sabor in 1963, I remained
8408 as director and after '63 I was elected president of

the Board of Directors for the St. Sava Mission until today. My duties were almost the same as those I performed as president of the board at Shadeland.

DX 231 is a photograph of the children's camp at St. Sava Mission in which four buildings are depicted. Two of the buildings were completed on the outside prior to 1963, but the buildings were finished and small items added inside subsequent to that date. Of course all the furnishings were purchased afterwards. At present there are four buildings on the site. The two buildings erected before May of '63 were the administration building and the boys' dormi-
8410 tory. Since then we have built a girl's dormitory and a building in which there are two classrooms and eight apartments for the people who work for the children. DX 232 depicts the administration building and a girls' dormitory. All of these buildings are air-con-
8411 ditioned. DX 233 is an olympic size swimming pool used for the bigger children and is in the middle of the pump house. In May of 1963 only the excavation of the swimming pool had been completed and the pool was finished subsequent to that date. DX 234 depicts the administration building where there is a kitchen, a dining room, a stage, two offices and other facilities. In May of '63 this building was built as it is except
8412 it did not have sidewalks and landscaping around it and smaller things required for finishing had not been completed.

DX 235 depicts the administration building, the boys' dormitory and the girls' dormitory and the picture was taken from the newest building we have erected which is a lodge for the people who are working there and for the priests and staff who work at the camp and it also contains conference rooms. All

of these pictures depict scenes at Jackson truly and accurately as the conditions existed at the time the
8413 photographs were taken. Other improvements at Jackson since '63 include a completed playground area, a basketball court, a baseball field and a great deal of playground devices for the smaller children.

We also have improved the roadway between the buildings and the road which leads to Broadway in Jackson which is quite a distance. All of these roads have been black topped. Furnishings in the dormitories for the children include innerspring mattresses and beds that are normally used in everyday homes. The apartment buildings are of the highest quality.
8414 All of the buildings are air-conditioned. All of the improvements in biuldings and such that have occurred at Jackson since May of 1963 have been paid for by donations as at Jackson, we have no other source of income. To the best of my personal knowledge, no donations made toward St. Sava Mission in Jackson, California, were made by persons or groups who pay their allegiance to Bishop Gregory, Firmilian, Sava or Stefan. There have never been any limitations upon the use of the facilities at Jackson as to who could use them, and we have never refused anybody that came to the premises. I have seen people present attending functions who I personally knew did not pay allegiance to me or Bishop Dionisije. Several times when I performed funeral services there were more than 100 people present who were on the other
8415 side. We have been paying the mortgage at Jackson which amounted to $108,000 and the final payment will be made this year. There is a cemetery at Jackson which belongs to the St. Sava Church but is not located on the premises.

My relation to the St. Sava Monastery at Libertyville, Illinois is that I am in charge of the financial business of the diocese and at the same time as assistant to Bishop Dionisije. I have personal knowledge of the improvements and additions that have been made to the facility at Libertyville since May of 1963.
8416 Three old buildings received new roofs and another building has been remodeled. All the equipment for a dining room and kitchen has been purchased and they have been rewired and the plumbing installed. An additional kind of a block building was built. The building in which the Observer was to be and the equipment for it was purchased in all buildings, new furnaces were purchased and gaslines were installed. An 80 bed wing was added to the children's camp and all plumbing and electrical wiring were remodeled. All the roadways and parking lots were blacktopped
8417 and two wells were drilled in addition to two new pumps being purchased. The Observer is the diocesan newspaper printed in St. Sava Monastery in
8418 Libertyville. I believe it began publication at the end of 1964 or the beginning of 1965. It is printed at the monastery in Libertyville and the equipment is owned by the diocese. The equipment amounts to a linotype machine, an offset printing press, a machine that cuts the address plates, an addressograph, cameras of all kinds for enlargement and so on and a plate making machine. It is a complete offset printing shop. The Observer publishes, in addition to the newspaper, Sunday school books and materials
8419 and whatever else we can with a limited number of employed people. To the best of my knowledge all of the funds used to pay for improvements and to purchase the printing plant were raised through

donations. As far as I know all of these donations were made by people who pay allegiance to Bishop Dionisije. I am familiar with the policies at Libertyville regarding the use of the facilities and the premises.

As far as I know no one who came was refused. I know of several examples, for example, a lady who
8420 was here in the courtroom for several weeks whose name is Olga McKinzie was at our place for dinner at one of the events and she was not refused. Not too long ago Father Markovina from a Milwaukee parish came for the funeral of one of his parishioners. I know that Father Velimir Kovacevich, who was the interpreter in this Court, buried one of his parishioners from south Chicago in the cemetery. All this occurred since 1963. Last Sunday I know we had about 14 people from Chicago in the dining
8421 room who I know do not pay allegiance to Bishop
8422 Dionisije. I was invited to have dinner as every Sunday we do with all the people who come to church. After the church service they gather in the dining room and the sisters have lunch all ready prepared and it is a custom that a bishop or the priest reads the prayer and after that lunch is served. These 14 people sat at the same table where I sat. I initiated a drive to raise money for Shadeland, Jackson and St. Sava and for the use of the diocese since May of
8423 1963, and in round figures I would say for the drives that I have initiated and supervised and cooperated in have raised $340,000 for Jackson alone. For Shadeland I would estimate $120,000 and for the diocese in Libertyville for all purposes it is certainly more than $300,000. The summer camp in Libertyville can

comfortably house 160 children together with the help. Summer camp attendance in Libertyville has
8424 been close to 500 on the average every year. The capacity in Jackson is for 200 children at one time and over the summer there are about 400 children in
8425 attendance.

Cross Examination.

8426 The body of the diocese responsible for all financial
8427 problems is the executive board and the executive council. If there is a chief financial body this is it. At Shadeland I was presiding officer of the Board of Directors. The whole board is in charge of the operation and I was presiding. On a day to day basis the man in charge is the administrator or director
8428 of the property. At different times different persons have held this position. From 1963 to date I have been president of the Board of Directors at Shadeland. My duties as such were to preside at meetings, participate in all the projects that were considered by the Board of Directors as far as building or repair and contracts to be awarded. I supervised also what was done in the home for the aged and on the farm, in the camp and so forth. Concerning the day to day operation I lived there and while I was at Shadeland I went to see what was done every day.
8430 The Board of Directors are the men in charge and who are entitled to make decisions. I only have one vote and I cannot vote unless there is a tie. Whatever decision is arrived at at the meeting of Board of Directors it is followed. I did have the power to correct mistakes or make remarks if something was not done in my opinion but I was not a chief whose decisions were to be obeyed. I did not have that
8431 power. Between 1963 and 1970 there were employees

8432 at Shadeland. I would say the average number of employees was about 12. These employees were paid salary. Concerning the hiring and firing of them the administrator would propose it to the board and the Board of Directors does that. Although I am president of the board, I have never tried to hire or fire an employee alone and I do not know what would happen if I did.

8433 These employees report to the administrator if there is one and to the treasurer of the board if there is not. The administrator reports to the Board of Directors. I do not run this property as president of the board acting on behalf of or for the board. I do a lot of work there, but I do not run the property. The two new tractors in DX 228 cost approximately $7,000 apiece without any additional equipment and they are diesel tractors with power steering. We op-

8436 erate a milking parlor at Shadeland and have approximately 90 head of cattle. These cattle are dairy cows and heifers. We have only one bull which is tame as we do not breed cows with bulls, but use artificial breeding. On the average we have about 65 cattle

8437 which are normally fresh in this farm operation. Last year the receipts from milk production were approximately $29,000. In addition to the milk income we derive income from calves which are sold and pigs.

8440 I would estimate that the annual income for the year 1969 was not less than $70,000. The income was derived from the farm operation, the camp, and the old peoples' home. The annual income earned by property is spent on the property. The annual income is greater than the expenses of operation and the excess is put into improvement of the property. I arrived

8443 at Shadeland after my consecration in December of 1963 so I believe I must have arrived in early 1964.

8444 As far as I know, no tilling of the fields was conducted prior to my arrival. In 1964 we paid most of the unpaid bills and tried to reorient the farm problem. I wouldn't say that none of the improvements were undertaken in '64 as I believe the milking parlor was built or started at that time. I do not know

8446 exactly what it costs, but in round figures the cost of remodeling it was about $15,000. The improvement depicted in DX 227 was undertaken 2½ years ago and, as I remember, the aluminum siding alone cost about $1,800. The Board of Directors of which I am president is of a corporation incorporated in the State of Pennsylvania. The Board of Directors are

8447 elected at the Sabor in Libertyville and are the ones who handle the business of the corporation. The members that are entitled to elect them are delegates

8448 to the Sabor. I was not elected as president of the Board of Directors, but, as my post was assistant to Bishop Dionisije who as the Bishop of the diocese is president, the job was turned over to me as a delegation of one of his duties that I am to perform. I do not know of a specific bylaw or regulation permitting this but only of the general rules that a bishop has a right to assign to his assistant any duty he feels necessary to be done. By his position, the bishop is president of all boards in the diocese. This is provided for in the Constitution of the Serbian Orthodox Diocese for the United States of America and Canada.

8449 This Board of Directors is both at the same time a diocesan board and the board of a corporation. There are not two parts of it. The diocesan Sabor elects the boards that are going to handle each of the businesses that are within the diocese and one of these boards, which is the Board of Directors for

Shadeland, is elected at the Sabor with the specific duties to govern that monastery. As Bishop Dionisije's assistant I was assigned to be president of that
8450 board. As far as I know the Board of Directors of Shadeland existed before I arrived there. Since the time I began participating in the Sabors the Board of Directors have been elected in this manner. I arrived at Shadeland in 1955. This was my full time
8451 position. I was there for six years and there was a Sabor in '56 and another one in '60. I attended those Sabors and a Board of Directors for Shadeland was elected at the 1956 Sabor and again at the 1960 Sabor.
8453 I really do not know if there was a Pennsylvania
8454 Corporation in 1960. I thought there was a corporation but I do not know for sure myself. I did not incorporate it.

On PX 105A is the name the Right Rev. Bishop
8455 Irinej and my signature appears. This however is a new nursing home that we incorporated; this is the St. Sava Home that I participated in and is a corporation which is in the process of building a 100
8456 bed nursing home. I know that the diocese received permission from the state of Pennsylvania to operate the home for the aged, the camp, and other necessary facilities at Shadeland, Pennsylvania in accordance with the law of the state of Pennsylvania. I saw that document and I am sure I can even get it. But whether it is a document of incorporation or not I do not
8457 know. I was director of that property from 1955 and the diocese owned it from at least '51 or '52. I would
8460 love to have such a farm that grosses $50,000 to $70,000 per year, but the one at Shadeland does not gross that much money from the sale of milk, as it is in the developmental stage. We did not have so much

time to get the best cows there are and maybe the best producers could earn this kind of money but ours
8461 does not yet. I was president of the Board of Directors of the California corporation from 1963 to the present. I was at Jackson permanently from the end of '61 until the Sabor of '63. I have returned there in my capacity as president of the Board of Directors and am familiar with the improvements to that property.

The administration building depicted in DX 234
8462 was commenced in May of 1962. The building itself was finished by July but the landscaping and sidewalks and inside furnishings were not completed by that time. The building cost in the vicinity of $100,000. The swimming pool depicted in Exhibit 233 cost about $40,000. The Jackson property earns income through the meals prepared for celebrations by the Serbian Sisters' Circles. The rest of it is only
8463 through donations in money or labor or material. The annual income at Jackson is approximately $5,000.

A large amount of the donations come from one family, the Andja Polich family. This family did donate the administration building at Shadeland and from time to time gave donations but I would not say that their donations make up 50% of all donations. Concerning Libertyville I am assigned a duty of collecting money and finding ways and means to collect funds. I am one member of the Executive Board. In that capacity I do participate in disbursements and other business, but I am not in charge. The Libertyville property does earn income I should say that its income exclusive of donations comes to approximately $25,000. I became a school teacher

in 1937 and taught my students all the subjects. My
8465 field of study in Columbia University from which I graduated in 1952 was theologian philosophy. Monk
8466 Kresojevich was at the property when I arrived there. It is not true that Kresojevich would disappear for several days at a time and then return. Father Kresojevich went to serve on weekends in churches
8468 where he was assigned, but he did not disappear. I was not elected Bishop by the Holy Assembly of Bishops. There have been no other men besides Bishop Balach who have been elected bishop of the Serbian Orthodox Church by anybody other than the Holy Assembly of Bishops. I was elected by the
8469 church National Assembly or Sabor in November of 1963. At this assembly which was the 10th church National Assembly which was composed of duly elected delegates from all the church congregations I have personal knowledge that there were delegates from churches who now pay allegiance to Bishop Firmilian, although I do not know whether they participated in the election.

8470 I have testified that in the American-Canadian Diocese in its external affairs, it is more congregational than hierarchal. The difference is that in a strictly hierarchal church, like the Roman Catholic Church, the bishop appoints the priests and there is no congregational participation in it. For example, in the matter of church property the congregation's property in this diocese belongs to the members of that congregation while in the Roman Catholic Church it does not. The Diocesan Council in the Serbian Orthodox Diocese for the United States and Canada has more participation in the governing of the diocese
8471 than in churches which are strictly hierarchal. There

are duties and directives or assignments given to the laity through the Constitution of the Serbian Orthodox Diocese to a greater extent than in a strictly hierarchal church. The priests in the Serbian Church apply for a certain parish which is vacant through the bishop and if the bishop tells the priest he may not apply that is the end of it right there. A priest does not go on to the list of candidates unless his
8472 application has gone through the office of the bishop. The congregation has the right to dismiss the priest for any reason only they are required to give him one months' notice. They can inform the priest or the bishop that they are giving him notice and that he will not be their priest any more. The bishop will accept that and appoint the priest to another parish. The bishop is bound by that decision of the congregation. If there is a dispute between the priest and the congregation that Diocesan Council takes the case.
8473 The procedure is that they would appoint a committee to investigate. After the investigation is complete they hear both sides of the argument and decide what will happen. The decision is binding. The congrega-
8474 tion can't dismiss the priest if there is a dispute.

PX 30 which is the Constitution of the Serbian Orthodox Church and Article 117 substantiates what I have testified to. It provides "The church school congregation is not authorized to discharge a priest or to bring another in his place without the knowledge
8475 or permission of the diocesan bishop." Knowledge and permission are not required; it is knowledge or permission.

8477 The Serbian text before me states, "The church school congregation is not authorized to without knowledge and permission of the diocesan bishop to
8482 fire its priest nor to bring another one." A church

school congregation cannot give notice to a priest unless there is a regular meeting at which a vote is taken. The bishop might say no to their notice of dismissal, but that is not the normal way of doing things. If a majority of the church congregation vote to give notice to the priest that usually ends it. The bishop accepts the majority vote. That has been
8483 the practice in this diocese as far as I know for all time. Article 117 of the Constitution is followed as the bishop is always notified and has knowledge of the intention of the church or of the priest. If there is no dispute this ends it and if there is a dispute the
8493 Diocesan Council has to clear up the problem. A priest may not leave or resign from his position with
8494 a parish without obtaining his bishop's permission. For all internal affairs of the church he is directly responsible to the bishop and to the eccleseastical court. For all external affairs that is administration of prop-
8495 erty of the church where he participates raising funds building the church or something he works independently together with his executive board and the parishioners and members of the church. I believe
8496 Article 120 substantiates this position. The external affairs to which I had reference and stated that a priest is responsible only to his parish include financial matters. The priest does not however pay the gas bill or the telephone or the heating or anything. It is paid by the Executive Board; that is the membership.

8497 The priest is paid by the membership and the Executive Board at the yearly meeting with the members decides on the priest's salary. The bishop does not. The bishop can do nothing whatsoever with regard to salary that is increase or decrease. I am

8499 familiar with Article 143 of the Constitution. The Article speaks about disputes. As I interpret it only if there is a dispute would it go to the bishop but if a priest were to ask for less money as happens often it would never go to the bishop to be allowed. However, if there were a dispute about their wanting to decrease his salary in order to punish him for something, then it has to come to the attention of the diocesan bishop and the Diocesan Council.

8500 A group of Serbian Orthodox people joined toget-
8501 er to form a church congregation and they are required to sign a petition to the bishop that they intend to be members of that congregation. They submit a proposed bylaws and have to give a promise in their petition that they will be willing to organize a fund for building a church and the necessary facilities that may be required for a church congregation
8504 to exist. This has been the practice and it may be provided for in the Constitution. The guideline for all the work in the formation of a church school congregation is the Constitution of this diocese. A newly formed congregation becomes an integral part of
8505 the diocese. The practice has been that when a church school congregation at its yearly meeting, elects the Executive Board, an Auditing Board and all the boards they are supposed to elect. They send to the diocesan bishop a list of elected persons and the diocesan bishop has it in his office. It is their Christian
8512 duty to do so and they are obliged to do it. Each new member of the church school congregation must take an oath that he will follow the orders of diocesan
8513 authorities. I did not say that the Serbian church is a completely congregational church, but that in its external affairs this diocese has some features of

a congregational church. If a church school congregation board in the Serbian Orthodox Church takes some action which the higher diocesan authority feels is overstepping that board's authority the higher diocesan body they retire the board under proper procedure.

The Serbian Orthodox Church with its see in Belgrade is hierarchal and Episcopal in nature and each diocese of that church including the American-Canadian Diocese is an organic part of the church with its see in Belgrade with one difference that this diocese has a Constitution. The fact that this diocese has its own Constitution differs it from the life of the diocese in Yugoslavia. If a new church school congregation is formed in this country it need not become part of this diocese because we have Serbian Orthodox Church congregations under the Russian Orthodox Church and that have been so for many years. They are not considered part of the Serbian Orthodox church. They are Serbian Orthodox people but not part of the American-Canadian Diocese. Although the diocese in this country has its own Constitution it need not follow all the rules and regulations of the Serbian Orthodox Church. In the Constitution of the Serbian Orthodox Church there are sections which describe the life of the diocese and church congregations and they are different from what is required in this diocese so the parts which are general for all dioceses are followed by ours but the parts which are connected with the life of this diocese and the dioceses over there are different and are described by the Constitution of the American and Canadian Diocese. And they are proved by the Holy Assembly of Bishops. I was elected as a bishop of this diocese by the church National Assembly held

in November of 1963. I was elected a Vicar Bishop. There is no provision in the Constitution of this diocese as approved by the Holy Assembly of Bishops which provides for the election of a Vicar Bishop. I received a letter in which it is stated that the bishops who consecrated me did so on the service during the holy liturgy on such a date. It is not signed by the Patriarch. I testified that historically bishops in the Serbian Orthodox Church have been elected by clergy and delegates of the diocese. Metropolitan Prokopius was elected around 1855 and he was the bishop of the Serbian Orthodox Diocese of Sarajevo. He was consecrated at the Ecumenical Patriarch of Constantinople. I don't believe the Constantinople Patriarch did it himself as two bishops are needed and he probably ordered any of his bishops to do so. That diocese at that time was under the jurisdiction of the Ecumenical Patriarch because the Serbian Patriarchate had been abolished. There is another example of the election by the clergy and people in the Metropolia of Montenegro where Peter II was elected in 1830. He went to Moscow and was consecrated in the Russian Orthodox Church. At that time the Metropolia of Montenegro was an autocephalous church. Peter I who was St. Peter of Cetinje was canonized after his death not during his lifetime. He was elected by the people and the clergy of the Metropolia of Montenegro and was consecrated by the bishops of the Metropolia of Karlovic. I believe this occurred in 1782. Another one I mentioned was the Metropolitan for the Diocese of Sarajevo Metropolitan Dionisije and his Vicar Bishop Sophronius who were both consecrated by the Patriarch of Constantinople. At that time the dioceses under the jurisdiction of the Patriarch. To the best of my rec-

8528 ollection this was about 1860. Another one I mentioned was Savo Kosanivich who was to be consecrated by the Ecumenical Patriarch but refused the consecration until the people and the clergy of his diocese elected him and when the election was over he was consecrated. This was in 1879. He was not consecrated by the Holy Assembly of the Serbian Orthodox Church. He did not refuse consecration but when the Ecumenical Patriarch expressed his willingness to consecrate him he in turn politely answered that he would rather wait until clergy and the people elected him as had been the custom in that diocese. The Serbian Patriarchate was officially re-
8529 established in 1920. Since 1920 I do not know if a bishop of the Serbian Orthodox Church was ever consecrated by someone other than the Holy Assembly of Bishops. I know that priests who were in Yugoslavia were ordained by Russian bishops.

The money necessary for the improvement at Jackson and Shadeland and Libertyville came pri-
8530 marily from contributions. Fund raising drives were organized for the different entities and usually a fund raising drive was for a specific improvement. I
8531 do not know how many of them there were. I believe there were about 2,500 donors to Jackson, 2,000 at
8532 Shadeland and I do not know about Libertyville. I was not personally acquainted with every donor. I can state easily where the allegiance of each donor lay for when the committees reported on what they did they agreed not to visit people who did not be-
8533 long to their church congregation. We did not go to congregations who remained with the Mother Church as they would not receive us for the dispute was so terrible that the people did not talk to each other
8534 in some of the parishes. This is true on both sides.

In Plaintiff's Exhibit 145B is an announcement of the election of the Board of Directors at Shadeland in 1960. My name appears there as Abbot of the Shadeland Monastery but I was not elected. I am on the Board by virtue of my position as bishop. On
8535 page 2 of this exhibit under #3 is a list of all the boards of the diocese. All of the boards are elected at the church National Assembly. The Board of Directors of Shadeland is a diocesan board and I be-
8536 lieve an election was held in 1956. As far as I know the Jackson property was transferred to the St. Sava Mission for the diocese and the Board of Directors is elected at the Sabor to govern that property and improve it. I was consecrated by Archbishops Gen-
8537 ady and Gregory who were bishops of the Polish Orthodox Church. The Polish Orthodox Church is an autocephalous church and its Holy Assembly is located partly in Poland and partly in a group that immigrated in Europe. The two Polish bishops stand
8544 in apostolic succession and they are also referred to as Ukrainian bishops. There are two monasteries in this diocese, one St. Sava in Libertyville and the other Monastery of Most Holy Mother of God in Shadeland.

8545 The monasteries are governed by the Sabor through the Board of Directors that are selected at the Church National Assembly. It is true for both of the monasteries. The spiritual life of the monastery is under the direct control of the bishop through its ecclesiastical court. The administrative part of it is in complete control of the Board of Directors who
8546 certainly are obliged to bring the reports to the Sabor and explain what they have done and present new plans if they have them. I have read article 156. The bishop is President of the Board. The bishop

cannot be excluded and I specified that when the spiritual life of the monasteries in question it is under the direct control and supervision of the diocesan bishop. Having read Article 156 my answer is still the same as to the administrative control of the monastery because it has been the practice that the administration of the monastery is done by the Board of Directors this President is the bishop of the diocese. I have never seen what is marked as Plaintiff's Exhibit 216 before. In connection with churches or bishops that have been elected by the laity and by the clergy something has been going on of which I am aware in the church of Macedonea which is connected with the Serbian Patriarchate in Belgrade.

Cross Examination.

The bishops that diocese or metropolitanate of Macedonea are elected by the church peoples assembly as recently as 1958 and these bishops were consecrated in '58 by the Patriarch former Bishop German and Bishop of Bachka Nikanor and the Metropolitan of Macedonea Dositei. The Metropolitan of Macedonea is a Serbian metropolitan. Two bishops were elected at that time Bishop Clement and Bishop Naum. These bishops were elected by the people and the priests rather than by the Holy Synod in Belgrade.

Recross Examination.

Bishop Naum and the three other bishops that were elected were not appointed by the Holy Assembly of Bishops and were never at the meeting of the Holy Assembly. The election of Bishop Clement was accepted by the Holy Assembly of Bishops and he was consecrated for his diocese by the Holy Assembly.

DIONISIJE MILIVOJEVICH

Cross Examination (Continued)

I was elected Vicar Bishop in 1938 and consecrated by Patriarch Gabriel, and two or three other Bishops. It was provided in the 1931 Constitution that every election of Bishop be confirmed by the Government. Paragraphs 98 and 99 of the 1931 Constitution deal with the election of Bishops. I did not receive a grammata when I was elected Bishop. PX 29 is the paper which I received from the State. The Synod would notify the Government whom they plan to propose as Bishop Vicar or Bishop of the Diocese and ask for confirmation by the Government. When the Government confirms that, they elect the Bishop. The Assembly elects Bishops and the Synod keeps a list of candidates. In advance of the election the Government is consulted so that there is not trouble with a confirmation later. The Assembly elects after they agree with the Government.

I did not receive a grammata as is enumerated under Article 100 of the Old Constitution. Patriarch Demetrios issued such grammatas to some Bishops, but later on they stopped that practice and didn't issue any grammatas. I did not receive a grammata as a Bishop of the Serbian Orthodox Church, except for this document, the confirmation of the Government. At my Deposition I did not produce anything other than my appointment as Bishop from the State. I never received a grammata from the Holy Bishops Synod or Patriarch. The Patriarchs assigned me my duties as Vicar Bishop. My election as Diocesan Bishop was conducted by the Assembly. The Synod and Assembly supervises the work of Diocesan Bish-

ops. After Bishop Mardary's death, Bishop Irinej assumed the administration of the Diocese. Patriarch Varnava assumed control of the diocese for a period between Mardary's death and Irinej's appointment as administrator. Damaskin became Bishop of the American Canadian Diocese until the Diocese in Yugoslavia was vacant. I was elected by the Assembly after they agreed with the Government on my election.

Bishop Mardary was first elected for this diocese by the Russian Holy Bishop's Synod, but he was not consecrated. Later he was elected by the Assembly of the Serbian Church. He was consecrated by the Patriarch and two or three Bishops, and he came here as Serbian Bishop with the approval of the Government. Mardary was elected American-Canadian Bishop by the Russians when the diocese was called the Serbian Diocese under the jurisdiction of the Russian Holy Synod. The Diocese was under the jurisdiction of the Russians in 1920. It had to pass from the Russian to the Serbian jurisdiction and that took two or three years. In 1920 Bishop Nicholai came and made the recommendation to the Holy Assembly. Bishop Mardary was a Bishop of the Serbian Orthodox Church.

While the Kingdom of Yugoslavia existed prior approval of the Government was necessary before a Bishop was elected by the Assembly. I consider myself a member of the Serbian Orthodox Church and the Assembly of Bishops. I have heard that there are divided opinions in the Assembly as to whether I am considered a member of that body. I know of occasions when Bishops of the Serbian Church were elected other than by the Holy Bishop's Assembly. During the period of the Nemanich Dynasty, the

people elected Bishops. In the time of Prince Obrenovich he appointed the Bishops himself. The first Nician Council in 325 issued an epistle stating that the people have to participate in the election of Bishops, and that procedure was followed through the churches in history to the present time. For hundreds of years people have elected Bishops to the Orthodox Church. At the present time the people do not participate in the Serbian Church. Until 1945 the people participated in the election of Bishops and the Patriarch in the Serbian Orthodox Church.

My Vicar Bishop, Bishop Irinej, was elected by the Church National Assembly in 1963. He was not elected by the Holy Assembly of Bishops. Bishop Balach was elected by the clergy and people of Australia as Bishop of the Serbian Orthodox Diocese of Australia. I believe he is a Bishop of the Serbian Orthodox Church.

I don't remember but it could be that I was called to testify as an expert witness in 1952 in the Romanian case. I know that I testified but I cannot tell you if it was as an expert. I do not remember my testimony. (PX 217, copy of a transcript in the Tritza case, pages 110 through 124 is marked.) I do not recall testifying that I was appointed by the Synod and Patriarch Gabriel.

VERBATIM TESTIMONY

[8626] Q. Your Grace, do you recall having been asked when you appeared as the expert witness in the Trutza case—

Mr. Holmquist: What page?

Mr. Karacic: Page 11.

Q. Do you remember being asked a question,

"Now, are you familiar with the canon laws and the ritual discipline of the Orthodox Church?"

Do you recall that question?

A. Am I familiar with the law?

Mr. Holmquist: No.

[8627] By Mr. Karacic:

Q. Do you recall being asked that question when you appeared to testify in the Trutza case?

A. I don't. I don't remember.

Q. Do you remember making this answer: "Yes, I am"?

A. I don't know.

Q. And do you remember the question being asked of you at that time, "Will you state just briefly what the Orthodox Church is, the nature of the Orthodox Church?"

Do you remember that question, sir?

A. I could not remember now.

* * *

[8631] Q. I ask you to look at the cover of Plaintiffs' Exhibit 30, where it says "Translated by Rev. M. M. Mijatovich." Do you know if that's the same Mijatovich that came with you in 1940?

A. Yes, that was the same.

Q. Thank you.

A. But we did not accept that translation as correct.

Q. You did not accept that?

A. Yes. We did not.

Q. All right. Now, your Grace, was he a member of the Council, of the Diocesan Council in 1963, do you know?

A. Might be. I could not tell you just right [8632] now, before I look through some Minutes.

Q. Did you not discharge him on June 7, 1963, from the Council, because of his position?

A. Yes, I discharged him. Yes.

Q. Now, when you arrived in the United States I believe you testified that Father Mrvichin of Los Angeles was in charge of the Diocese or was acting in charge of the Diocese. Do you recall that, sir?

A. He was just an employe in the Diocesan office, but some other priests, Very Rev. Trbuhovich from Detroit was in charge and Very Rev. Stijacich from Chicago.

Q. Is this the same Father Mrvichin who you appointed to the official position in the Episcopal office in 1941, sir?

A. I ordained Mrvichin to be priest first, and I appointed him as a priest in Hamilton, Canada; later on in Gary, Indiana.

Q. And was he not appointed as Financial Secretary of the Diocese, sir, by you in '41?

A. I don't know until I look.

Q. All right, sir.

Mr. Crown: Showing the witness what has been marked Plaintiffs' Exhibit 111 for identification.

By Mr. Karacic:

Q. Does that refresh your recollection, your Grace?

[8633] A. Yes. He was an employ of our Diocese and I appointed him as our employe, yes.

Q. And then in 1952 did you appoint him as Vicar General of the Western—

A. In which year?

Q. In 1952 did you appoint him as your Vicar General of the entire Western Division of the Diocese?

A. I appointed him in the Western Diocese, western part of our Diocese, yes.

Q. As Vicar General?

A. Yes.

Q. After May of 1963, did you discharge him as that Vicar General?

A. Yes, I discharged him, too.

Q. And along with that discharge, your Grace, did you advise him that he could no longer attend any of the meetings of the St. Sava Mission in Jackson, California?

A. Probably that was that way. He hadn't any authority to represent anybody, represent me in our Mission in Jackson, California, yes.

Q. So then he was not allowed any further activity at the Mission there in St. Sava, Jackson, California?

A. Yes.

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ABSTRACTED TESTIMONY RESUMED

8638 As Bishop of the Diocese I must recognize the Patriarch of the Serbian Orthodox Church. I was
8639 elected by the Assembly with the agreement of the Kingdom of Yugoslavia. At the present time I don't know if the Bishop's Assembly or Religious Committee for Affairs, or Special Committee elects the Bishops.

VERBATIM TESTIMONY

[8639] By Mr. Karacic:

Q. Did you ever have occasion, your Grace, to review the Serbian Orthodox Church Constitution as amended from 1957?

Mr. Holmquist: Till when?

By Mr. Karacic:

Q. To date. Did you ever have occasion to look at that Constitution?

Mr. Holmquist: Well, now, just a minute.

[8640] I'm going to—

The Witness: I really didn't—

Mr. Holmquist: Just a minute, your Grace. Just a minute.

I don't think it's been established that this witness has had access to any of the documents in Belgrade at least since March of 1964 when he was defrocked.

Mr. Karacic: From 1957 to 1964.

Mr. Smith: There is no such document. There isn't anything like that. The one he described doesn't exist.

Mr. Holmquist: Are you referring to some document now?

Mr. Karacic: I'm referring to Exhibit 68.

Mr. Smith: No, that's not what he referred to.

Mr. Holmquist: Do you know what document 68 is, your Grace?

May I see what you're referring to, counsel?

Where is it?

Mr. Karacic: Isn't it in that book? It's already in evidence, I believe, as the Constitution of the Serbian Orthodox Church, the 1957 edition.

Mr. Holmquist: All right. The 1957 edition.

Now, what is your question?

[8641] By Mr. Karacic:

Q. Have you ever had occasion, your Grace, to see this document which is being put before you by Mr. Holmquist?

Mr. Crown: I'm also putting before him 68-B, which is the Serbian, of which that 68 is a translation.

The Witness: I am only familiar with the Constitution of 1947.

By Mr. Karacic:

Q. 19 what, sir?

A. 1947, when it was revised, and the Patriarch Gabriel with the Holy Bishop's Assembly made a revision of the Constitution in 1947, so that one I know. This one I don't know.

Q. You never saw this edition of the Constitution?

A. I saw that book, but it never was sent to me. Officially I never used it.

ABSTRACTED TESTIMONY RESUMED

8641 I am not familiar with the 1957 edition to the Constitution. I am familiar with the 1947 edition.

8643 The people have tried to amend Article 9 of the Diocesan Constitution several times and the Synod
8645 has refused the amendment. Our Church National Assembly made amendments to change Article 9. The amendments have not been approved by the Assembly to the present time.

8647 The 1947 Constitution was announced in the Glaznik with the provision that the Constitution be presented to the Patriarch Council for approval. I don't
8648 know if the 1957 edition is the same as the 1947 edi-
8649 tion. I was under an obligation as Bishop of the American-Canadian Diocese to file an annual report
8652 to the Assembly. (Offer of Proof) A Bishop's report is referred to in the Diocesan Constitution in
8655 Article 10. (The Offer of Proof is refused)

8658 I believe that God alone knows who is my successor
8659 in the event of my death. Prior to the split in my opinion the people and clergy of this Diocese would make a recommendation to the Patriarch regarding
8660 a successor-Bishop. In the present situation we must first have the establishment of justice in the court

and the mistakes of the Assembly of 1963. Then we would see what we may do for the next Bishop. I
8665 was under an obligation until May, 1963 to mention
8666 the Patriarch's name. I was president of the Serbian Orthodox Christian Unity, an organization approved by the Serbian Orthodox Church while I was in
8667 Yugoslavia. Not all religious organizations must be approved by the Assembly. I approved the By-Laws of the Clergy Association and they sent them to the
8668 Bishop's Council where they were approved. I wrote letters every year to the Assembly and did not attend the meetings from World War II until 1962. My reason for not attending is this: Since 1946 Communist papers have proclaimed me traitor to the state of Yugoslavia and they asked for my removal. I thought I had better not go there because they would treat me like a traitor and put me in jail. I did put that in my answer to the Holy Synod; in one letter to them I said I am considered over there as a traitor of the state how could I be safe if I came. Patriarch German wrote and said that I shouldn't worry but I said to myself "better not go."

8674 I sent my congratulations to Patriarch German
8675 when he was elected. I announced his election to the
8676 clergy in the diocese. (PX 218, 218A, 219 and 219A
8677 are admitted as evidence.) I was invited to the '59 Sabor and gave the Patriarch my proxy. We intended to help our church over there morally and
8678 materially as much as we could. I gave Patriarch my proxy in some cases but not for the Macedonian
8700 Church. I forwarded the bylaws of the clergy association of the diocese to the Synod for approval. (PX 220 is refused.)

[8678] Q. Your Grace, you testified earlier that you had forwarded to the Holy Synod for approval the by-laws of the Clergy Association of the Diocese here in this country. I ask you to look at Plaintiffs' Exhibit 49.

Mr. Crown: 49-A.

Mr. Karacic: 49-A.

Q. Is that what you have reference to in that letter, sir?

Is that the Clergy Association you are talking about?

A. This is reference to Clergy Association, but nothing else.

Q. Is that your signature on the bottom of 49-A, your Grace?

A. Yes.

Q. And are these the by-laws of the Clergy Association of this Diocese that you forwarded to the

[8679] Holy Synod for approval?

A. Providing if that is in the spirit of the Constitution of our church and Paragraph 12 and so on, from our side, and in the spirit of 69 of the Constitution of the Serbian Orthodox Church, we think it could be approved.

Q. Now, your Grace, in that letter you speak of Article 69 of the Constitution of the Serbian Orthodox Church.

A. Yes.

Q. What edition of the Constitution have you reference to, do you know?

A. Let me look at it again.

Which was this one?

Mr. Crown: 49.

Mr. Karacic: May I help you?

The Witness: Then Article 12 of our Constitution of our Diocese.

By Mr. Karacic:

Q. That's the Diocese Constitution.

A. And 69.

Q. But you speak of 69.

A. But 69 of the Constitution of the Serbian Orthodox Church.

[8680] Q. Yes, your Grace, and I ask you what edition of the Constitution of the Serbian Orthodox Church have you reference to in that letter?

A. Well, I could not tell you until I look at the Constitution itself.

Q. Well, if the letter is dated in '60, your Grace, isn't it a fact you have reference to the last edition of the Serbian Constitution published?

A. See, I said in here, "but if that is in the spirit of 69 of the Constitution of the Serbian Orthodox Church, then should be adopted and approved by the Holy Bishop's Synod." I said that here.

Q. Well, they approved the by-laws, did they not? Do you know, your Grace, if they approved the Clergy Association by-laws?

A. I think they approved.

Q. Your Grace, I show you what has been marked as Plaintiffs' Exhibit 68-B, and ask you to look at Article 69.24.

Mr. Holmquist: What is it?

Mr. Karacic: 69.24.

The Witness: Yes.

By Mr. Karacic:

Q. Is that the provision you had reference to,

[8681] your Grace?

A. I believe, yes.

Q. Then, your Grace, when you had reference to that paragraph, were you speaking of the 1957 edition of the Serbian Orthodox Constitution?

A. I'm speaking of the Constitution of 1931.

Q. Your Grace, I show you the Serbian Orthodox Church Constitution as passed originally in 1931, and ask you to look at Article 69 in that Constitution, which speaks of Secretaries of the Supreme Ecclesiastical Court and Clerks, and has no reference at all to any Clergy Associations, and I'll show you Plaintiffs' Exhibit 68-B again, .24.

Your Grace, I show you Plaintiffs' Exhibit 68-B, Article 69.

A. Maybe that is. Maybe that is which I mentioned.

Q. Then you had reference to 68-B and not to the '31 Constitution; is that right?

A. No. It has it somewhere.

Q. Maybe I can help you, your Grace. If you're looking for 69, as it appears in the '57 Constitution, in '31, you'll find it under—

Mr. Holmquist: Article 63.

[8682] Mr. Karacic: 63.27.

Q. 63.27 of the 1931 Constitution. Do you see that there?

A. Yes, this is the same meaning here.

Q. Right. But in your exhibit, in your letter of April 1960, your Grace, which is marked Plaintiffs' Exhibit 49, you speak of Article 69 of the Serbian Orthodox Church Constitution, and in 69 it speaks of the Clergy Association, but of the '57 edition of the Constitution.

A. Yes. Well, that's a mistake. This is correct here. It should be quoted here 63.27.

Q. Then you are now testifying, your Grace, that your letter of April 1960 is a mistake—

Mr. Holmquist: No, that isn't what he said.

By Mr. Karacic:

Q. —as to the paragraph of the Constitution?

Mr. Holmquist: That isn't what he said. You're just arguing and badgering the witness.

Mr. Karacic: I'm not arguing with this witness.

Mr. Holmquist: The letter is there. It refers to Article 69. He pointed out that that's in the 1957 Constitution. Now, what more do you want?

Mr. Karacic: I'd like the witness to say that. The witness says now it's a mistake.

[8683] Mr. Holmquist: He said that once, that apparently that's what it was, that it was from the 1957 Constitution.

Mr. Karacic: I'll accept that answer.

ABSTRACTED TESTIMONY RESUMED

8701-A I got to the 1940 Diocesan Council meeting about 9:00 or 10:00. Dushan Siliski was the legal advisor.
8706 I told Siliski that I was the new bishop. Siliski said
8707 "wait a minute let's see whether we accept you." At that time I recognized the right of people to participate in the election of bishops in the governing
8708 of the diocese. I told him I would do my duty if they
8709 accepted me and if they decided not to I would go back to Belgrade. I don't know if Firmilian stayed inside the meeting while I stepped out. Later Siliski
8710 told me I was accepted.

VERBATIM TESTIMONY

[8710] And at that time, your Grace, you state that you recognize that the laymen had a right to elect bishops?

Mr. Holmquist: Objected to, been asked and answered already. He said he recognized it.

The Witness: Rights. Rights of the people to participate in the life of the church.

Mr. Council—

Mr. Holmquist: Just a minute, there's no question pending.

By Mr. Karacic:

Q. Your Grace, had you called this meeting on that date?

A. Yes, I call that meeting.

Q. As the Bishop of the Diocese?

A. Well, I signed myself Bishop of the Ameri-
[8711] can-Canadian Diocese because was my title by appointment.

ABSTRACTED TESTIMONY RESUMED

8712 The term Serbian Episcopate refers to the bishops of the Serbian Church—one part of the church is
8713 bishops, one part clergy and another is people. Episcopate of the Serbian Church refers to the bishops of the Church. Episcopate in the plural means several bishops. I believe I proposed a creation of an episcopate abroad to create bishops independent of each other. I proposed a Metropolitanate system as the Greeks and Russians have. I opposed three
8717 independent bishops. My proposal did not include
8718 removing people and clergy from participation in the
8720 election of the bishops. I did not agree with Bishop
8721 Nicholi's proposals. I wanted to keep the integrity, that is the unity of the Serbian Orthodox Church.
8722 The Patriarchate is not the Church. I wanted everyone to be united with the Serbian Church. Bishop Nicholi wanted the church in America to be a separately organized church.

VERBATIM TESTIMONY

[8721] By Mr. Karacic:

Q. Now, your Grace, "Diaspora", can you advise us what is meant by that word?

A. "Diaspora" is a Greek term, means the peoples' is scattered in different parts of the world. This means "Diaspora."

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[8725] A. That's generally saying means whether is organized diocese or not organized diocese. With outside of the State of Yugoslavia or Serbia, which kind of state—

Q. Well, the diocese in the United States is not considered Diaspora?

A. That's looking from general meaning of it. Diaspora is everything what is outside of Yugoslavia, all Serbs outside, they are in Diaspora. Organized or not organized.

Q. You cannot—you would not consider an area that is under an organization under a dioecse organization as a Diaspora, would you, your Grace?

A. I consider it every church community or diocese outside of Yugoslavia as Diaspora.

Q. Who has jurisdiction over Diaspora territory? Patriarch, sir?

A. In different times.

Q. At present, your Grace, at present.

A. At present, by the Constitution of the Serbian Orthodox Church, was the Patriarch.

Q. Well, your Grace, did you have occasion to make certain recommendations to the Patriarch con-
[8726] cerning Diaspora territory?

A. Yes, sir.

Q. And do you know when that was?

A. I could look my files and bring my correspondence. I've got of that.

Q. Do you know what your recommendations were pertaining to the Diaspora territory, your Grace?

A. I am recommending Metropolitan system. Metropolitan system, not autocephalous churches. Not independent dioceses, but Metropolitan system as the Greek, they having here, the Russian, they having here too. I'm recommending that, because it keeps unity with the Mother Church also and keeps together the people which is in different states and countries.

Q. Well, your Grace, when you spoke of the Metropolitan system, what area were you speaking of, the United States and Canada?

A. Well—

Q. To Australia?

A. I am speaking for outside of Yugoslavia, for all territories wherever the Serbian people is living.

Q. In other words, your Grace, your recommendation was for a Metropolia of the Serbian Church outside of Yugoslavia, all the areas.

[8727] A. Maybe several metropolias, maybe two or three.

Q. I'm asking you what did you recommend? One metropolia or several?

A. I recommended two or three. One for here, one for United States of America and one for Australia and other parts. I recommended two or three.

Q. And these metropolias would be presided over by whom?

A. By a Metropolitan who would recognize the Patriarch.

Q. Would he be elected by the Holy Assembly of Bishops?

A. He would be elected by the people and by the bishops of that Metropolia of that region and recognized by the Patriarch.

Q. If you were first going to establish a Metropolia in parts of the world that didn't have bishops, how would the Metropolitan be elected by that area?

A. Well, I will tell you that our Church National Assembly in 1939 made the proposition to the Holy Bishops Assembly that this diocese be elevated to the rank of Metropolia in 1939 and to have one bishop and two or three bishops.

[8728] Q. Was that for the world?

A. For the United States and Canada at that time it means, and then maybe spread farther then.

Q. At that time, your Grace, the presiding bishop would then be a Metropolitan, is that it?

A. Yes.

Q. And who would have elected him?

A. According to my opinion he should be elected by the bishops of that Metropolia.

Q. Well, at that time, in 1939, there were no bishops here in America and Canada.

A. Was bishop, was not Metropolitan. It must be agreement between the people here and the Holy Synod.

Q. Your Grace, who would have elected the Metropolitan that you are suggesting in 1939, would it not have been the Holy Bishops Assembly, sir?

A. No.

Q. It would not?

A. They just had to recognize him which elected by the people and by the treasury and by the bishops.

Q. And that at that time then, your Grace, would certainly have been contrary to the church Constitution, would it not?

A. How many times that church Constitution was
[8729] changed? Contrary to one time, not contrary to other times.

Q. And would that not be contrary to the canons of the orthodoxy of the Serbian Orthodox Church?

A. Would not be.

Q. Would that Metropolia would then be autocephalous of the Serbian Orthodox Church or not?

A. That depends of the people over there. For instance—

Q. Over where, sir?

A. Of that region. Of that region.

Q. That region could then declare its autocephality?

A. With the Metropolia.

Q. I show you what is marked Plaintiff's Exhibit 44 in evidence and I ask you—

A. Yes, I read it.

Q. In having read Plaintiff's Exhibit 44, your Grace, and having refreshed your memory, in 1952 did you request to assist in the administration of a diaspora?

A. I just knew a question about who is governing the diaspora because Patriarch Gabriel gave it to me in 1948 with the Holy Synod then.

[8730] Q. Were you returning it, your Grace?

A. On the request of the Patriarch Vikentije I returned it to him.

Q. And with the—now, at that time, your Grace, you speak of a—the diaspora in Western Europe could be entrusted with a suffragan bishop with the see of London. There was not a Western Diocese.

A. Was not as yet formed at that time.

Q. You stated that Patriarch Gabriel entrusted to you the care of the diaspora.

A. Yes.

Q. What area in particular was that, your Grace, that he entrusted to you? It was not the United States and Canada, right?

A. No, it was area all over the world where Serbs immigrated and settled.

Q. Was it all over the world or was it South America and South Africa?

A. Was all over the world.

Q. Did you ask permission to return the area of the diaspora that was entrusted to you to the Patriarch, do you recall that, sir?

A. I believe my Diocesan Council asked that.

Q. The Council?

[8731] A. Yes.

Q. Who did the Patriarch entrust the diaspora to, to you or the Council? Do you know, your Grace?

A. See, when organization is made, and when organization is formed, then would be Diocesan Council would be some kind of bishops would be some kind of missionary and so on.

Q. I'm asking you when Patriarch Gabriel entrusted the diaspora to you, did he entrust it to you or to the Council?

A. To me, including the Diocesan Council because more involved of the material expenses.

Q. Are you suggesting, your Grace, that you and the Council gave that back to the Patriarch or was it just you, your Grace?

Mr. Holmquist: I think what he said was Council—

The Witness: When the Patriarch Vikentije asked me to give it back, I gave it back. That means when the 1951 was Patriarch German secretary of Holy Synod here visited United States he said Patriarch wants back diaspora that he will govern it and he will rule it.

By Mr. Karacic:

Q. When was that?

A. 1951.

[8732] Q. 1951?

A. Yes.

Q. When did you give back the diaspora?

A. I maybe 1952. I would look at the file.

Q. When was Patriarch Gabriel elected Patriarch, do you recall, your Grace?

A. I believe 1937, after Patriarch Arvenijvo.

Q. When did he give you the diaspora?

A. 1948, and he wrote me several letters, one letter indicating 1936 from Italy I should take care for all priests abroad which are many.

Q. Well, I'm not talking about priests now, I am talking about—

Mr. Holmquist: Did you say 1937?

The Witness: Around '46. Between '35 and '40. Serbian priests were abroad and he suggested to me to take care for them. They were in Italy in that case.

By Mr. Karacic:

Q. This was right during and after the war, is that right?

A. Yes, sir.

Q. The Patriarch himself at that time was in exile, is that right?

A. He was in exile but he was enslaved first in
[8733] Germany in 1945, was freed from German prison then he fled to Italy, decided to return to Yugoslavia.

Q. But to the best of your ability, you had included in the diaspora an area you were adding, you had the entire world outside of Yugoslavia.

A. I believe so, yes, yes.

Q. And you returned this to the Patriarch around 1952?

A. Yes, I believe so.

ABSTRACTED TESTIMONY RESUMED

8732 During and after the war Patriarch Gabriel asked
8733 me to take care of Serbian priests who were abroad. Diaspora included the entire world outside of Yugoslavia. I believe I returned this area to the Patri-
8734 arch around 1952. It is not necessary that the eleva-
8743 tion of priests to higher ranks be confirmed by the Synod. I believe there was an occasion when I asked the Synod for permission to elevate somebody in rank. When the Court passes a sentence of defrock-
8744 ment that should be sent to the Synod for confirmation. If a person makes an appeal it is appealed but by all means we should notify the Synod of defrock-
8747 ment. Without the approval of the Synod I can give the rank of Archpriest or Archimandrite to a priest
8748 in my diocese. I don't believe Article 70 applies to
8749 the American-Canadian Diocese. I gave Archiman-
8750 drite Firmilian his rank without asking the Synod. I
8757 notified the Holy Synod of my actions.

VERBATIM TESTIMONY

[8754] The Witness: I notified the Synod he is not my bishop, yes.

By Mr. Karacic:

Q. When was that, your Grace?

A. I have to look the files.

Q. Excuse me?

A. I have to look the files. I could not know when that was.

Q. Well, was that before 1963 or after 1963?

A. Maybe was in 1963.

Q. And would that have been, do you know, before May 10 of 1963 or after May 10 of 1963?

A. I don't remember.

Q. But you are certain you advised the Holy Synod of Bishops of Firmilian's discharge as your Episcopal Deputy?

A. That is automatically done when according to our Constitution Bishop is outside of Diocese, he then appoints one Bishop's Deputy to perform some duties instead for the [illegible]shop where he returns his duties he stops to be performed then I don't know. I know for certain this when I discharged him in '63,
[8755] in June, that was in '63 in June because he stopped —he said openly "I don't recognize you as my bishop" before all the people and I said, "You are not anymore my bishop — my deputy," and I so discharged him.

Q. Well, then, is that at the June 6, 1963, Diocesan Council meeting?

A. Yes, yes, yes.

ABSTRACTED TESTIMONY RESUMED

8762 I did not notify the Synod of Bishop Firmilian's discharge as my episcopal deputy. I discharged Rev. Firmilian in 1957 as secretary of the diocese and the diocesan financial secretary and so on. In the case
8767 of a defrocked priest if new evidence or data is submitted to the court the defrockment may be revoked without the confirmation of the Synod. Before May 10, 1963 we would notify them but we did not after because they stopped all correspondence with me.

8777 According to Article 57.7 of the Penal Code a defrocked priest cannot be restored but there are other
8795 provisions which existed before which permitted that. Rev. Gosinovich was defrocked but the Synod did not approve it. He made appeals. At the present time he is in Yugoslavia somewhere in the service of
8796 the government or patriarchate. If the Synod changes the defrockment the matter is returned to us for reinvestigation. We never found Rev. Gosinovich in America to examine him again so the matter
8804 is still pending. If a bishop of another Serbian Diocese took action against one of his priests I would recognize it if it were legally and canonically done.
8805 I could go over the entire case again. We had a case
8806 like that in the Belgrade Ecclesiastical Court: this
8809 case was in the nature of a change of venue not an appeal. (Plaintiff closes his offer of proof and the
8810 Court refuses it.) A priest leaving one diocese and going to the other must first submit some acceptance from the other bishop and then obtain release from
8811 his former bishop. If the old bishop refuses to re-
8812 lease him the new bishop could deny his acceptance. There are lots of canons which speak about a priest
8815 leaving a diocese. (DX 223 and 223A are admitted in evidence).

8816 The diocese according to the bylaws is autonomous.

8817 As bishop I was autonomous in many respects but not in canonical aspect. I had to mention the Patriarch in the services and to work together with the diocesan bodies meaning the council, ecclesiastical
8818 court and other diocesan orders. In all of the church national assemblies I spoke about the unity of the church with the provisions of our autonomy provided in our bylaws. The Serbian Orthodox Church has

one Constitution for all the dioceses inside Yugo-
8819 slavia. Other bylaws existed for the diocese of Budam in Hungary during the time of the 19th Century. The American diocese has its own Constitution which governs this diocese and provides autonomy. I am referring to administrative autonomy.

8820 I did not desire prior to May 9, 1963 that this diocese sever its relationship with the Patriarchate.

VERBATIM TESTIMONY

[8823] By Mr. Karacic:

Q. Your Grace, I show you what has been marked as Plaintiffs' Exhibit 85, sir.

Your Grace, did you have occasion to attend a Diocesan Executive Board Meeting on April 17, 1963, at Libertyville, Illinois, sir?

A. I believe I presided at it.

Q. You presided, sir?

Mr. Holmquist: Before you question further, could I examine the document?

Mr. Karacic: Yes. I'm not questioning on the document right now. I'm just asking preliminary questions.

[8824] Q. Your Grace, did you say you presided at the meeting of—

A. I believe I presided at the meeting and here those are all Diocesan Boards signed after.

Q. And at that meeting, your Grace, was a Resolution or statement adopted by that Board?

A. Yes.

Q. Were you present, your Grace, when discussion was being conducted with reference to the Resolution or statement?

A. Yes.

Q. Who called this meeting originally, your Grace? Was this at your direction?

A. I believe I called it.

Q. All right, sir.

Mr. Holmquist: The document states that it's a regular session on Wednesday, April 17, 1963.

By Mr. Karacic:

Q. And the document was signed by you, was it not, your Grace, as the Bishop and the first of all the signatories?

A. Yes.

Q. And then by your Episcopal Deputy, Archimandrite, at that time, Firmilian?

[8825] A. Yes.

Q. And was Archimandrite Balach at that time Secretary?

A. Yes, yes.

Q. Now, your Grace, approximately two weeks later did you attend a Clergy Association meeting, sir? Do you recall?

A. It might be I attended, yes.

Q. Your Grace, do you recall if there was a Clergy Association meeting at Lorain, Ohio, on May 9, 1963?

A. I don't know which date but I recall was a meeting.

Q. And do you recall if you attended and presided over that meeting?

A. I didn't preside at that. I attended.

ABSTRACTED TESTIMONY RESUMED

8823 I attended the meeting referred to in PX 85. I at-
8826 tended the clergy association referred to in PX 86. I recognized the resolution in the beginning but then
8829 I removed my signature. I placed my signature on

blank paper and the committee was ordered to revise the resolutions. Some of the signatures were signed in blank and some later. I removed my signature two
8830 or three days later. When I saw the resolution later
8832 I removed my signature because I disagreed with some of the provisions. I can't recall who I saw sign this document.

8836 In my opinion as bishop I stood for canonical and spiritual union with Belgrade. The word canonical includes hierarchal but our Constitution uses the
8840 word canonical. I don't recall a telegram going to the Patriarch or believe that I signed a telegram at the clergy association meeting. I don't recall PX 118.

8846 When Father Buhich returned from Belgrade he
8851 gave a report to the diocesan executive board. Father Buhich did not tell me that the Patriarch was considering reorganizing the American-Canadian
8853 Diocese. DX 84Z is a letter I wrote concerning Fa-
8855 ther Buhich's report. Father Buhich reported to the board that the assembly was considering reorganiza-
8859 tion of the diocese. PX 84AA is the Patriarch's letter to me on June 29. I received this letter in August time. It did not come in the same envelope with the
8860 letter from Metropolitan Damaskin. (Counsel agrees that the date on the letter in the exhibit is the date
8864 of minutes and not the date of the letter.) I don't know whether I received DX 117 before I received the letter dated June 29, 1962. I believe I received Metropolitan Damaskin's letter first. Then I re-
8869 ceived letters from the Synod and the Patriarch.

I don't know whether the complaints I received from the Synod in the early '50's were all of the complaints against me that were sent to the Synod. Con-
8872 stantine Fotich was ambassador of the Royal Gov-

ernment and the people who made charges against me were on the side of "Free Expression", a Communist movement in America and a subversive organization. The Fotich group gathered together with the Royal Yugoslavian Government and were behind the King of Yugoslavia. I considered the complaint
8873 against me to be political. The partisans in Yugoslavia were a communist group. The Pavelich re-
8874 ferred to in DX 119 is a fascist leader who killed
8875 Serbs. DX 123 is a political complaint against me. DX
8877 126 is a political complaint against me by people
8878 hiding behind very nice democratic words. (Counsel for Defendant asks counsel for Plaintiff whether he is skipping the letter concerning the World Council
8879 of Churches and defense counsel states that he is skipping the letter concerning the World Council of Churches and the other one about Bishop Nicholi and he speaking at a Catholic men's club. Defense counsel notes that DX 131 is a complaint from the minister of foreign affairs concerning their speaking before the Catholic club.) DX 130 is a complaint by the ministry of foreign affairs pertaining to my attendance at a Catholic club in Chicago and Bishop Nicholi delivering a sermon at St. Luke's Church of
8882 Evanston. I consider the material in DX 135 to be patriotic and national. The Serbian National Defense was formed without my intervention in 1942 when the Serbs of America heard of the tremendous slaughter of Serbs in the independent state of Croatia. Eight hundred thousand Serbs were slaughtered over there and they were killed by the Croatian fascists under Pavelvich. The Serbian National Defense was formed to defend Serbian people all over
8883 the world. I did not declare Mihailovich a saint but I

declared that those eight hundred thousand Serbs who were murdered because they were Serbs were as innocent as a saint. I consider that this is a political writing against me and I am thankful to God that I fought them and am continuing to fight them.

8884 DX 140 is a copy of a denunciation of Rev. Arsenje from the monastery of New York. I knew of
8887 a newspaper called Serbian Unity which is no longer
8888 in existence. The editor Mr. Pejovich wrote some political articles against my action, against my work and against me but before he died he sent me a letter asking for my blessing and for forgiveness. Rev. Arsenje did not write; he just collected some articles and sent them to the Synod and they sent them to me for my knowledge. Rev. Arsenje regretted this later
8890 and confessed that he was in error. I think there are some other documents which have not been presented which are complaints against me submitted by the Synod. I don't know if I have other complaints in my file.

8891 After World War II I was very active in campaigning against Communism. The canons may be interpreted as supporting a fight against Communism. The Holy Bishops Assembly does not interpret the canons as they apply to the Serbian Church. Every bishop, every priest and every layman inter-
8892 prets the canons. This is not a responsibility or jurisdiction of the Holy Assembly. The Assembly has a responsibility to interpret the canons but if some bishop or priest has the courage to interpret or write about them they can do so without any permission of the Assembly. Everyone should interpret the Holy Canons according to the Holy Fathers interpretation which is already in the books. Everything which

differs from that interpretation, even that coming from a bishop, patriarch or assembly, would be false.

8895 I recognize Article 69, subparagraph 9, referring to interpretations of canons. Our church has never issued any codex or interpretation of the canons. We had a famous interpreter, Bishop Milas, who inter-
8897 preted the canons. The Assembly should give the explanations of the canons which are based upon the old explanations of the Holy Fathers. If any difference appears in the explanations of the Assembly from that existing in the Holy Fathers explanations, then the assembly's explanation is not obligatory. It would not be accepted by the church, by priests, by people or anyone.

8898 I opposed Communism in Yugoslavia and in this
8900 country because it is the enemy of God. PX 224 is a copy of several pages of the 1945 Calendar with my
8903 article in it. The Calendar was published at the end of 1944. I believe I wrote the article some time at the
8913 end of 1944. Subsequent to 1954 I received two complaints from the Synod concerning the World Council of Churches. I did testify that I was asked by
8915 members of the Synod or the Patriarch to avoid participation in politics but participation in politics is the phraseology of the Communist party in Yugoslavia because they are not permitting the priests or the bishops or anybody to take part in any politics. Patriarch Vikentije wrote me about avoiding gatherings and I explained that I am not a member of any
8916 political party or a politician. I believe the bishops there were taught to avoid and not to attack Com-
8918 munism. These earlier complaints in the late 1940's did not come from the United States and Canada but came from the Yugoslavian government and Tito. In 1945 Tito himself. I confined myself to the mission
8919 of the Serbian Orthodox Church. The Metropolitan

delegation were guests in my house. The diocese didn't have enough funds to pay the expenses so I created a special fund. I don't recall whether the diocesan council decided to pay their expenses. I
8927 would have to look at the minutes. (DX 225 is ad-
8928 mitted in evidence). During the private meetings in 1962 between myself and Metropolitan Damaskin and Bishop Nikanor, Bishop Nikanor took the minutes. I
8932 wanted to sign the minutes together and they avoided that. I told Metropolitan Damaskin that the idea of creating a metropolia for the United States and Canada was the idea of our church national assembly, not my idea. When Metropolitan Damaskin was here in 1939 they decided to ask that this diocese be elevated to the rank of metropolia. I told him that I was not wishing to be a metropolitan here. Metro-
8934 politan Damaskin said that only the Patriarch may
8935 have vicar bishops. He suggested that some vicar bishops might be elected and sent to the United States to assist me. I said I could not recognize bish-
8936 ops which were not my own because they have another man supervising them. I told Damaskin that vicar bishops would have to come from this diocese because the people here would not receive somebody
8945 from Yugoslavia. Damaskin said "I have some letters against you" and I said to him "I will gladly answer you everything if you send it to me officially through the office of the Holy Synod." Bishop Nikanor agreed to that and put it down in the notes that these complaints would be sent to me through the office of the Synod. Damaskin did not advise me
8946 what these complaints were about. He didn't say whether they were very, very important. The dele-
8947 gation visited approximately one-third of the sev-
8948 enty-four congregations in the United States and

Canada. I don't know if any donations were given to them personally. Certain contributions were given
8949 to me for the Patriarch while they were with me. Some people were very doubtful about the arrival of
8950 the delegation. Some people were glad. Damaskin was a bishop here in '38 and '39 and he had some personal friends who were happy to see him. I do not recall seeing anyone crying when they met the delegation. I was present at the beginning of a clergy association meeting at South Bend in November and the delegation was there to the end. I was at the
8951 meeting an hour and a half and left with Reverend
8952 Brkich. There were twenty or thirty priests there.
8953 A man named Djuich attacked me and said that I should not be bishop of the diocese. I did not respond
8954 to Djuich. I walked out of the meeting. The Damas-
8955 kin delegation told me that they did not come for any investigation.

After the delegation departed I heard that they had been collecting materials on me. I told the delegation to send me the charges and that if I have to I will bring my accusers before the civil courts.

VERBATIM TESTIMONY

[8963] Q. Sir, did not Metropolitan Damaskin in effect advise you that they would give you two or three de facto Vicar Bishops to help you in this area?

Mr. Holmquist: Now, just a minute, I am going to object to that. The document speaks for itself, and Counsel is paraphrasing it. All it says here is that the matter was discussed. And I object to the form of that question. In the first place, Metropolitan Damaskin was not in position to guarantee anything. This was discussed that he would, as the head of the delegation—and all this report shows, and you can

look at Damaskin's report, all it shows is that these matters were discussed.

Mr. Karacic: Q. Well, did he propose that?

Mr. Holmquist: I object to that form of the ques-
[8964] tion. I think what it says, and the documents speak for themselves, that these matters were discussed. And I am sure it is Mr. Karacic's position that the only person that could make any final decision in this regard was the Holy Bishops Assembly.

Mr. Karacic: Oh, yes.

The Court: Well, that is not the question. This, as I understand it, is the report made by the witness.

Mr. Holmquist: This is the report made by the witness.

The Court: Is that not so?

Mr. Holmquist: Yes. He is relating in his report what was discussed.

The Court: I understand that.

Mr. Holmquist: Yes.

The Court: I don't think we are limited in questions to the report itself. It is a basis for the report.

Mr. Holmquist: Well, you were going into this report—

The Court: It is not necessarily conclusive, or all embracing I shouldn't think.

Mr. Holmquist: Well, back to the question that
[8965] was asked — Mr. Staton, will you go back to the question that was asked?

(Pending question read.)

Mr. Holmquist: That's what I am objecting to: didn't he advise you they would give you . . .

Mr. Karacic: Well, I can change that.

Mr. Holmquist: All that was done, it was discussed. There were various discussions. Damaskin never said he would do this; I am sure he didn't.

There is nothing in that report that said he would do it. He didn't have the power to do it.

The Court: Mr. Holmquist, this is cross examination. I overrule you. The Bishop may answer.

Now, he probably needs the question again. Will you read it, Mr. Staton?

(Pending question read.)

The Witness: A. No, not in that form.

Mr. Karacic: Q. In what form, sir?

A. But that those should be Vicars of his Holiness the Patriarch, and the Patriarch may assign them for the duty here in the United States of America and that I may then make proposal for which I wanted.

I said I could not accept such a proposal.

Q. Your Grace, was that the only way a Vicar
[8966] Bishop is provided for in the Serbian Church, that he must be elected to the Patriarch?

Mr. Holmquist: There is no question about that, but the Bishop was proposing something else. That's the reason he rejected it, because under that form of Constitution, a Vicar Bishop is directly responsible to the Patriarch and that's what the Bishop—

The Court: We have been over this before.

Mr. Holmquist: Yes, that's why he objected to it; he didn't want somebody over here that was responsible to the Patriarch in Belgrade.

Mr. Karacic: Q. Now, your Grace, with reference to the Diaspora of the entire American continent, did you advise the delegation that unless they actually became part of the Diocese, you would not accept the administration of that, of the Diaspora, from the Patriarch even if he gave it to you?

Mr. Holmquist: Didn't we go over this yesterday or the day before?

Mr. Karacic: We went over the fact that he gave it up because he couldn't administer it all.

The Witness: A. When we discussed that problem, I said if I would receive from his Holiness, the Patriarch, the right to administer those parts of the
[8967] world where he could not do it.

Q. You would, did you say?

A. Yes, I said that in here, in my report; I could not. I could not, but I wanted that that Holy Bishops Assembly decide it, that those provinces be added to our Diocese, as part of our Diocese.

Q. All right. Then your answer is, your Grace, that you would not accept the administration of that area unless it was part of the Diocese?

A. Unless they are part of this diocese.

ABSTRACTED TESTIMONY RESUMED

8967 When Djuich began to speak in a loud voice I went out. It could be that he said that I prepared separa-
8968 tion of this diocese from the Patriarchate.

8970 I received PX 3E around May 21, 22 or 23. I was not suspended as bishop because I was never the
8971 Midwestern Diocesan Bishop. I made no arrangements to turn over the administration to Archimandrite Firmilian because the order referred to Bishop
8973 Dionisije of Midwestern American Diocese. The order addressed to me as Bishop of the Midwestern American Diocese is against the Holy Canons. I
8975 wrote to the Synod. (Defense counsel notes that the
8976 letter is in evidence). I wrote the letter a week or ten days after I received the letter from the Synod.
8977 I don't know if that was before or after I issued a press release. I received DX 84C around May 25. This is the first time I learned about the reorganiza-
8983 tion of the diocese. The canons the Synod violated

are the 17th of the Fourth Ecumenical Council, the 17th of the Apostolic Canons and besides the by-laws of the Serbian Orthodox Church, the 6th canon of the Second Ecumenical Council. I might find some
8984 others. The 74th Apostolic and the 9th and 29th of the
8995 Fourth and the 6th of the First were also violated. The elevation of a diocese to a metropolia is not a reorganization of the diocese. The addition of terri-
8997 tories to a diocese could or could not be a reorganization of the diocese. The addition of South America and South Africa to the territory of the American-Canadian Diocese could not be done without the consent of the bishop of this diocese and the agreement
8998 ment of the Patriarchal Council. The 1962 abolish-
8999 ment by the Assembly of the Patriarchal Council was illegal.

DX 218 is a report I prepared when the Damaskin
9001 delegation was here in 1962. At the time I prepared this report the Assembly did not have the right to
9004 abolish or divide dioceses. According to Article 16 of the Serbian Orthodox Constitution the Holy Bishop Assembly did not have the right to elevate this diocese to the rank of metropolitan in 1962 without the agreement of the Patriarchal Council. I heard in 1962 that the council had been abolished but I never recognized
9006 that action as legal. In my report I mentioned some dioceses inside Yugoslavia which the Assembly transferred to the Macedonian church and I considered
9007 that illegal. I was not asking the Assembly to do any
9009 illegal act. In my circular dated May 25 I said that I would not surrender duties as American-Canadian bishop and I did not recognize that I was suspended as American-Canadian bishop.

9014 At the June 6, 1963 diocesan plenum meeting Bishop Firmilian who was then Archimandrite Firmilian asked me to transfer to him the duty of the Midwestern American Diocese. I said I'm not bishop of that diocese and later on members of our diocesan plenum decided that the administration of our diocese could not be changed until the church national assembly was held. For that reason the Assembly was advanced
9015 from October to August. I agreed with the decision of the council and they sent a telegram to Belgrade. I received a letter about June 8 about a delegation coming to ordain Bishop Lastavica and then on June 13 I received a letter advising me that a delegation would come for an investigation. Both letters are from the Holy Synod.

VERBATIM TESTIMONY

[9016] By Mr. Karacic:

Q. Now, your Grace, after you received the noti-
[9017] fication that the investigating committee was coming and prior to its actual arrival in the United States, did you not issue statements and make statements against the committee?

Mr. Holmquist: Objected to, I object to the form of the question.

The Court: Objection overruled.

The Witness: I don't know, I have to look it over.

By Mr. Karacic:

Q. Your Grace, I show you what is marked as Plaintiff's Exhibit 78; was a circular issued by you I believe in Vidovdan on October 1963 from the Monastery in Libertyville. Do you recall that circular, your Grace?

A. Let me read it to the end to see.

Yes, I recall that.

Q. And that was issued on Vidovdan 1963 around the end of June of 1963, was it not, your Grace?

A. Yes, may be, yes. Around the June.

Q. Your Grace, I refer your attention to the fourth paragraph where you state that the commission is not a guest of the diocese and that the delegation will not be a guest at St. Sava Monastery in Libertyville nor in Shadeland, Pennsylvania.

[9018] A. I found in here, I found that this delegation is not a guest of our diocese.

Q. Yes. And you were not—you said they were not to be a guest at the Monastery either in Libertyville nor in Shadeland, is that right?

A. Yes.

ABSTRACTED TESTIMONY RESUMED

9023 A non-bishop administrator cannot give Bishop dispensation. Some questions in administering a diocese fall in the dispensation rights of the bishop.

VERBATIM TESTIMONY

[9024] By Mr. Karacic:

Q. Now, your Grace, prior to this Holy Synod Investigating Commission coming to the United States, did you take any action or did you take a position to ask the people in the United States and Canada not to recognize the decisions of the Holy Bishops
[9025] Assembly because they were political in nature and to rise with you against those decisions?

A. Beside of my press release which you had of it of the 25th of May, I didn't write anybody anything else to recognize, not recognize and this and that except that I wrote that I am not recognizing those administrators.

Q. All right. Your Grace, I show you now what is marked as Plaintiff's Exhibit Number 79 which is a circular issued by you also on Vidovdan, 1963, issued from the Monastery at St. Sava, Libertyville, Illinois—

A. Yes.

Q. —and I ask you, sir, to look on page 3, that part after the first sentence under paragraph 7 which begins at the end of this circular, "I appeal to all—" the next paragraph, "I call all Serbs in the world—" and the following paragraph, "I accept under protection of this diocese—" and I ask you to please read those three paragraphs which are in capital letters.

Have you read them?

A. Yes.

Q. Having read those three paragraphs, your Grace, I ask you if you have, having refreshed your
[9026] memory, I ask you if you did not issue a circular prior to the Holy Synod's Investigation Commission coming here calling upon all Serbs to join with you against the decisions and calling all churches to join you who do not wish to recognize the decisions and calling on all people who wish to stand with you and fight against the Patriarch German and his unlawful decisions of the Holy Bishops Assembly.

Mr. Holmquist: He already said he issued this on this date.

Mr. Karacic: Not this one. He said he did other than his press release, he did not issue anything else.

Mr. Holmquist: He said anything after that date—didn't you?

Mr. Karacic: Yes.

Mr. Holmquist: This was issued the same date as the other one.

Mr. Karacic: No it's not. The end of June and the other one is issued in May.

Mr. Smith: 78 was issued the same day.

The Court: What is the date of this?

Mr. Karacic: Vidovdan he testified was the end of June, end of every June. June 28.

Mr. Holmquist: That's the date he issued the
[9027] press release.

Mr. Karacic: The press release was dated May 25, 1963.

The Court: Well, if there is no dispute about this document—

Mr. Holmquist: There isn't any—

The Court: Pardon me, please. No disputes, I think It is clear what it means and it will speak for itself. And about its origin.

By Mr. Karacic:

Q. Now, your Grace, when a delegation from the Holy Synod, Holy Bishops Assembly, visits a bishop at his monastery, is it not customary for that delegation to remain at the Monastery?

Mr. Holmquist: Objection.

The Court: He may answer. If there is a custom.

The Witness: You want me to answer?

Mr. Holmquist: First establish whether there is a custom.

The Court: Is there a custom?

The Witness: That delegation sent to me a letter from Pittsburgh addressing me as Midwestern American Bishop. I answered to them as I am not such a person.

The Court: Pardon me, I am interrupting you, but that is not the question. The question is, and I added
[9028] to the question, is there a custom to have a delegation stay at the monastery, or cannot you answer that?

A. In peace time, yes, is the custom, when there is a brotherly feeling.

The Court: That is, ordinarily?

The Witness: Ordinarily, yes.

The Court: All right, next question.

By Mr. Karacic:

Q. Now, your Grace, you did not allow this investigating commission to stay at the monastery in Libertyville, did you?

Mr. Holmquist: I'm going to object to that. There isn't any evidence that they requested to.

The Court: He may answer. I think we all know, but let him answer. Did you or did you not?

The Witness: I believe that I wrote a letter to the delegation that I could not receive them in the Monastery because our people is not willing to have them in the Monastery.

The Court: They didn't stay there, did they?

The Witness: I believe I wrote a letter to the delegation which was in Pittsburgh during that time then I accepted them in the Monastery when they arrived,
[9029] greeted them appropriately and said to them let's go for dinner in some restaurant where we may talk about—

The Court: Next question.

ABSTRACTED TESTIMONY RESUMED

9028 I believe I wrote a letter to the delegation that I could not receive them in the monastery because our people were not willing to have them in the monas-
9031 tery. I cannot verify my signature on PX 123. I remember issuing the priest at Shadeland oral instructions that the investigation committee were not guests of the diocese; they should be guests of the accusers. The 1962 delegation remained at the monastery.

9034 I refused to sign the minutes at the Rustic Manor because I was not bishop of the Midwest Diocese and they addressed me as bishop of the Midwest Diocese.
9035 I've never seen PX 82A before. (Defense counsel notes that the minutes refer to the bishop as bishop
9037 of the Midwestern American Diocese). (PX 84BB is received in evidence). I don't know that Bishop Chrysostom tried to see me in Cleveland. I never re-
9038 ceived PX 9 from the Synod. I do not believe that I violated my bishop's oath.

9041 I was not accused for not coming to the Holy Bish-
9042 ops' Assembly meeting. They understood my reasons.
9043 Since I was a traitor in the present state of Yugo-
9047 slavia I would be jailed over there and sentenced. (PX 227 and 227A are admitted).

VERBATIM TESTIMONY

[9086] By Mr. Karacic:

Q. Now, your Grace, do you recall having been asked to testify in the Romanian Orthodox Missionary Church cases versus Trutza in the Federal Court in Ohio in 1952?

A. I remember you mentioned that in here.

Q. Do you remember being there as a witness?

A. I was over there several times in several groups of the Romanians and I don't know whether I was in court or outside of the court or which kind of thing it was.

Q. Your Grace, do you remember appearing and actually testifying in that case as a witness?

[9087] A. I don't know.

Q. Your Grace, is it not a fact that this particular question was put to you as a witness in that case and you—

Mr. Holmquist: Where are you reading from?

Mr. Karacic: Page 115.

By Mr. Karacic:

Q. And you say—

Mr. Holmquist: I object, the Bishop doesn't recall if he testified at this point.

The Court: Well, I will allow the question. He can reply in his own way.

By Mr. Karacic:

Q. And you say the canon laws for your church are the same as the canon law for the Romanian Church and you gave this answer, your Grace:

"A. The same."

A. I don't believe I said "The Same."

Q. And was this question asked of you, your Grace, on page 115:

"Under those canon laws can people—"

The Court: Just a moment. Your Grace, you are entitled to understand fully that you are not being asked direct questions now about your opinion or anything of that kind, you are being asked whether
[9088] or not you recall that you were asked these questions and gave those answers at the time of the hearing in question at that prior court.

The Witness: I don't recall.

By Mr. Karacic:

Q. Was this question put to you, your Grace, as follows:

> Q. Under those canon laws can people, laymen or anyone else, elect a party to become a bishop?"

And did you give this answer:

"No, no and no."

A. I don't know because my opinion all the time was that the people should participate and—

Mr. Holmquist: You answered the question.

The Court: Your answer is to be only if you recall that question and that answer.

The Witness: I don't recall it.

By Mr. Karacic:

Q. And do you recall and was this question put to your Grace:

> "Now Bishop, as an expert on the canon law —"

Mr. Holmquist: What page now?

Mr. Karacic: 117.

By Mr. Karacic:

[9089] "Q. Now, Bishop, as an expert on the canon law of the Serbian Orthodox Church and as an expert on the canon law, can you state whether the canon law of your church is the same as the canon law of the Romanian Orthodox Church?"

And did you give this answer, your Grace:

"A. I think, with your permission, I don't know. This is the United States. We are citizens here and the United States is recognizing each church, its own right to rule, and having their own rules inside for their own church."

"Q. Yes, we understand that."

A. That means for your church, that means for my church, that means for Jewish church or any other."

"Q. Now, will you answer the question as an expert, as to whether or not you can state whether the canon law—whether you are familiar—"

And the Court interrupted and said:

"I think he has answered."

And then you answered:

"I could say that the the canon law, holy canon law is the same holy canon for every other church, either Russian or Romanian or Serbian or Greek, in Ameri-
[9090] ca, each recognizing the holy canons, with some exceptions. Even the Roman Catholics are recognizing holy canons which we have with some additions of their own. These holy canons are recognized by all churches."

And do you remember this question put to you, your Grace:—

A. I could not remember.

Q. Do you remember this question, your Grace:

"As an expert can you state as to how a bishop or an individual is elevated as a bishop in a Romanian Orthodox Church?"

And did you give this answer:

"The same as in the Serbian."

Q. And was this question put to you:

"How is that?"

And you answered:

"The Bishop House is electing a Patriarch, the Holy Synod is consecrating him."

And was this question put to you:

"Can anyone else in the Romanian Church other than the Patriarch in the Holy Synod elect and consecrate a bishop for the Romanian Orthodox Church?"

[9091] And did you give this answer:

"No. In that church will be one, a united and one Romanian Church."

And was this question put to you then—did you give that answer?

A. I could not remember.

Q. And was this question put to you then:

"Would you repeat that last part?

And did you give this answer, your Grace:

"For one church has a Serbian and has a Romanian, is one united, not divided, not separate, two or three. No one can elect, nobody can consecrate a bishop for that church, for that people except the Holy Synod Bishop House and the Patriarch who is the head of this church."

Did you give that answer, your Grace?

A. I don't know.

Q. Do you recall the Court having interrupted and saying at that time:

"The Court: Let me get that statement. If the particular church isn't separated, then you say a bishop can only be elected?"

And did you give this answer:

"The Witness: Yes."

[9092] A. Would not remember.

Q. And did the Court then give this question:

"If it is separated, different rules apply, is that correct?"

And did you give this answer:

"If for instance in the Russian Church, for instance in the Russian Church in America, any American Russian Church governed by metropolitan delegate, he has recognition as a bishop from the Patriarch in Moscow, and this is a separate church, it is under his jurisdiction, his own bishops, and he might elect a bishop for America without asking the Patriarch in Moscow.' '

A. I don't remember that.

Q. And do you remember this question then being asked by the Court:

"Why is that?"

And do you recall giving this answer:

"Because when a nation is bigger, when they like to have their own churches, they form, according to holy canon, a separate church body."

Do you remember giving that answer?

A. I could not remember that, either.

ABSTRACTED TESTIMONY RESUMED

9086 I remember being with several groups of Romanians
9088 and I don't remember whether I was inside court or
9102 outside court. I don't recall questions which were asked of me.

Redirect Examination of Bishop Dionisije.

I recall Plaintiff's counsel asking me whether I was president of the Serbian Orthodox Church's Christian Unity organization and I testified that that organization was approved by the Holy Synod. This
9103 organization had the purpose of preserving the faith and opposing some heresies and Communism. It was organized in 1919 shortly after the Bolshevic Revolu-
9105 tion. I was president of the organization from 1919 to 1930.

9106 During 1941 to 1944 I don't believe there were any meetings of the Assembly because of the German occupation. After World War II I could not go to Yugoslavia because I had been proclaimed a traitor by Tito. I read this statement by Tito in an official paper of Tito's Communist organization. DX 86A, 87 and 88
9107 are the newspapers I'm referring to. DX 86 is the
9108 official newspaper of the Communist Party of Yugo-
9109 slavia. I am mentioned by name in the article which
9116 is DX 86, the English translation. (DX 86 through 88 are rejected). I received the information that I
9117 had been declared a traitor by Marshal Tito from the newspapers printed in Belgrade and spread all over

the world. These newspapers reflect the official think-
9118 ing of the government of Yugoslavia. I also had many conversations with people who visited Yugoslavia and returned back to the United States. They
9119 told me "You should not go over there; otherwise, your life is in danger." I wrote articles in this country attacking Tito from the time he took over in Yugoslavia. I had correspondence with the State Department officials of the American government is regard
9120 to that. I picketed the White House when Tito visited the United States. My actions were in the press at that time. I made many speeches in my opposition to the Tito government. I appeared in San Francisco
9121 to protest against the government of Tito being admitted to the United Nations. DX 67 is the 1954 let-
9122 ter from the Synod asking me to stop mixing into politics. DX 97 is my press release of August 6, 1954 concerning the persecution of the Serbian Church in Yugoslavia by Tito. DX 94 is the pamphlet entitled "Persecution of the Serbian Church in Yugoslavia" bearing the date August 14, 1954. This pamphlet was written together with Bishop Nicholai.
9123 Exhibit No. 94 was circulated generally throughout the country and we presented it to the World Council of Churches Conference in Evanston in 1954. This
9126 was within two months of my getting DX 67. (DX
9127 237 and 237A are admitted in evidence). DX 238 and 238A are my letter dated January 26, 1963 to
9128 the Patriarch. I sent the letter to the Patriarch on
9130 or about the date it bears. (DX 238 and 238A are admitted in evidence). (Witness excused.)

9133 NICK STEPANOVICH testified as follows:

Direct Examination.

My name is Nick Stepanovich. I live in East Chi-
9140 cago, Indiana, and am an attorney at law. I studied at the University of Illinois in Champaign both as an undergraduate and as a law student. I am licensed to practice in Illinois and in Indiana. I practiced law
9144 from 1930 to the present with the exception of five years during which I was in the army. I was assigned to the military intelligence, specifically the area of Yugoslavia. I have been, and presently am, legal coun-
9147 sel for the Serbian Eastern Orthodox Church of the United States and Canada. Since World War II, I
9148 have returned to visit Yugoslavia on a number of
9149 occasions. I went at the behest of the State Department of the United National on a mission to bring out as many of the 18,000 Hungarian refugees as possible. I saw Patriarch German on a number of the visits and he made a visit here in 1950 at which time he stayed at my home as a guest.

9152 (Offer of proof.) My first conversation with Patriarch German was in 1955 in Zhica. Our discussions were very limited. It was quite obvious that the church was in desperate straits. At Zhica the main
9153 administration building was part of the monastery built in the 12th Century and this had been partially destroyed by German artillery. There was no roof on the building and rain was coming in and it was unusable to a large degree. Patriarch German told me he had been ordered by the government to restore the building and if it were not restored to a usable condition within one year, it would be torn down. Of course, this is one of the most sacred monuments in the Serbian Church and there was no way they could

get the funds to renovate the building. This was an example of how these monuments were being destroyed because they could not be rehabilitated. The church had no funds available; the people were very very poor.

9154 He asked me if I could do anything about getting some funds for the restoration of the monuments, and in particular, this building. In 1958 when I visited there, there had been some improvement. However,
9155 I was cautioned by the Patriarch himself to speak in low tones during my visit and to be extremely careful and cautious because there were government people stationed right in the Patriarchate. In the province of Croatia there were 220 churches before the war
9156 and out of this number only 20 were in existence and habitable at that time. The Patriarch again made a desperate plea for help and assistance from the United States.

9157 In 1960 I again went to Yugoslavia to determine the status of the Serbian Orthodox Church and Roman Catholic Church in that country. When we arrived
9158 we discussed with the Patriarch the status of the church and attempted to ascertain why so many refugees were fleeing Yugoslavia and escaping to the free West. I pointed out to him that a great many of the refugees had escaped because of religious persecution in the respected areas and communities. The purpose of the visit was to discuss the extent of freedom of movement and the authority of the church in
9159 1960. He pointed out to me that the church was still subject to the religious commission although there had been a bit of loosening up and delegations were being permitted to go to the Soviet Union and other Eastern countries. (End of offer of proof.)

9160 During my visits to Belgrade I had occasion to make personal inspection of the conditions of the churches in Yugoslavia. I made it a point on my first trip to start at the Easternmost coast of Yugoslavia at Rijka. I rented a car and went through the province of Croatia all the way down to Belgrade. I stopped in a number of villages and spoke to the peo-
9161 ple. I saw many churches through that particular area that had been burned to the ground and destroyed. After leaving Belgrade, I went to Montenegro and inspected a number of destroyed churches. I then came back along the Adriatic Coast. In my '58 trip I made an inspection of other areas of Yugoslavia, and in 1960 the trip was limited to three days, and so, I was not able to visit any churches except the ones we went to for religious services.

9167 I was appointed sometime in 1962 to be a member of a delegation designated to go to Belgrade. I was involved with the organization and the arrangement
9168 of that delegation. It is my belief, in view of the status of the church in Yugoslavia and knowing the attitude of the people who belong to this diocese, that we should prepare ourselves for the eventuality of Bishop Dionisije's death. I felt very strongly that if
9169 there were to be any bishops designated from Yugoslavia there would be considerable trouble and difficulty. I suggested, therefore, in 1962 that a delegation of American members of the Diocese go to Yugoslavia to discuss with the Patriarchate our position in the event anything happens to Bishop Dionisije. The delegation was eventually comprised of Steven Maravich, a business man from St. Louis, myself and
9170 Father Brkich.

9172 There was considerable discussion as to whether or not Bishop Dionisije should go to Yugoslavia at

this time. There were numerous expressions of fear for his safety and one objection which was paramount and discussed at length was the fact that the Bishop's presence in Yugoslavia might compromise his position with the faithful in the United States who are bitterly anti-communist. For example, in previous Sabors prior to 1962, it was customary that the Sabor enmass with the Patriarch would appear at the government palace and have their pictures taken with Marshal Tito. It would of course be fatal for the Bishop to have a picture of that nature circulated or further still a picture to be taken at some function with a red star of the Yugoslavia flag. It was
9173 unanimously agreed that the Bishop should not go with the delegation and the Patriarchate be apprised of that fact. This was discussed and acted upon, I believe, at the Plenum meeting in February of 1962. I had some correspondence with the patriarch after I was informed or had knowledge that the delegation would not be accepted without Bishop Dionisije as its head. Defendant's Exhibit 239 is a copy of a let-
9174 ter sent by me to the Patriarch. I did not receive a reply until July or August of 1963, a little over a
9175 year later. In this letter, in more than one paragraph, I talked of solidarity within the diocese and the mother church. This is the position which I took at that time. My position remained unchanged up
9176 until May 10, 1963. Also on April 17, 1963, at a diocesan Executive Board Meeting held at St. Sava Monastery, I signed a statement concerning the coninued unity and solidarity between this diocese and the Mother Church in Belgrade. Plaintiff's Exhibit 85 is a copy of that statement.

The document was signed by all the members of the board who were present, although it was late in the evening and some had departed after authorizing the affixation of their signatures. At this time there were numerous rumors and pamphlets being issued critical of Bishop Dionisije and there were some newspaper articles. It was proposed that we evidence our solidarity and call attention to the Holy Sabor that we expected them to take into consideration, as they had done in the past, our wishes and needs, stipulated by the specific conditions in which we live, and to accommodate us in this respect so that our unity and indivisibility might in this manner always be mutually manifested to the benefit of our entire Serbian Orthodox Church and the Serbian people. We called to their attention that we in the United States live under a specific set of conditions and would maintain unity as long as there was a hands off policy as far as our administration was concerned. We had absolutely no forewarning of the action that was taken on May 10, 1963. About ten to twelve days after the 10th, I received a mimeograph excerpt of the minutes. Between the time I received this excerpt and the time of the Plenum meeting I had considerable contact with His Grace Bishop Firmilian.

I have been legal advisor to the American-Canadian Diocese since around 1948, but have never received any remuneration for my services or any expenses in traveling throughout the country or to Yugoslavia.

The Plenum meeting on June 6th was opened by Bishop Dionisije who immediately turned it over to Mr. Maroavich and Dr. Safers who are the two vice-presidents of the diocese. At the time the meeting was convened Bishop Firmilian was not there and

came in about a half an hour later. After sitting through the preliminaries Bishop Firmilian asked for the floor and said, "Gentlemen, I want you to obey the directive that you have received from our higher authority and turn over to me the administration of this diocese, the Midwestern Diocese, and make it easier to carry out my function. Today, in these critical times when our church was suffering more than it did under the Turks for five hundred years, today, when the church was being oppressed by communists and being subjected to this pressure, we should be cooperative and not oppose the order of this Holy Synod, our higher church authority." Bishop Dionisije replied, "I am not the Bishop of the Midwestern Diocese." He said further that he accepted the Sabor and would do whatever they directed him to do. He said that he did not feel that the Plenum had any authority to decide in this matter and that all they could do was pass it over to the legislative body of the diocese. I then expressed my view to the Plenum that the Sabor was the only competent body to take any particular action. I said that there were two specific issues, one was the abolition of the diocese which was absolutely counter to our constitution, and that the other concerned Bishop Dionisije and was a separate question. I said that if the Bishop were tried and given a fair hearing, I would be the first to condemn him. The Sabor was scheduled for October 18, 19 and 20, but it was unanimously agreed by all participants including Bishop Firmilian that the Plenum was not competent to make decisions in this matter and that the Sabor should be advanced, and on a unanimous resolution the first week in August was set as the date.

We also voted to send a telegram to the Holy Synod asking that they send out an investigating commission to determine the charges and to hold a hearing as far as Dionisije was concerned with the hopes of determining this matter before the Sabor came about.

During the course of this meeting Bishop Firmilian was neither calm nor collected. Throughout the course of the meeting he kept insisting that they should turn to the authority of the diocese over to him as he had an order to carry out. I sat alongside of him at all times and I asked him to please be patient and that everything would be worked out. The Archimandrite left toward the end of the meeting. I recall that he did remain long enough to vote on advancing the Sabor to August. However, he departed prior to the vote inviting the delegation from Belgrade. He and Bishop Dionisije left approximately the same time and there was an exchange of words as they left. Bishop Firmilian stated Bishop Dionisije was not following orders and said that he did not recognize him as his Bishop. Bishop Dionisije replied, "Well, if you don't recognize me then you are no longer the vicar of the diocese and no longer a member of the Ecclesiastical Court."

I own a tape recorder and had taped prior meetings and subsequent meetings. The tape recorder was between Bishop Firmilian and myself. It was customary to tape the entire proceedings of all Sabors, Executive Board Meetings and Plenum meetings as this would facilitate the writing of minutes and at the same time preserve the record. The entire proceeding is recorded on these tapes. After the meeting on June 6th I received a response, concerning the Investigating Commission requested, through a letter

from Bishop Hrzistom. He stated that he would like to talk to me on the fourth of July. I received this letter about a day or so before the fourth. I talked to Bishop Hrzistom on the phone on the fourth of July and made arrangements to meet him later, with Dr. Sefers and one or more members of the diocesan executive board, the evening of the fourth. Because of the large crowd at Father Popovich's house I suggested that we rent a dining room at the Sherman Hotel and they agreed to this idea. Present at this meeting were Archimandrite Firmilian, Mr. Maravich, Dr. Sefers, Father Brkich, Mr. Drovak, an attorney from Milwaukee, Bishop Lastavica, Bishop Visarion and Bishop Hrzistom. I believe that there were ten of us present.

After dinner I told them that the Plenum, which had been delegated power to call a Sabor, had advanced the Sabor to August and I asked Bishop Visarion whether he thought this Sabor was legal. His answer was, "It was." I then turned to Bishop Firmilian and said, "Why if this meeting is legal are you boycotting this Sabor?" Father Firmilian said to me, "I am not boycotting it; my parish is sending delegates. We are at sea as to whether to send two or three delegates, but I am not boycotting this meeting." Then I said, "Gentlemen, I have two questions that I would like to ask and if your answer is a certain way I will pull out of this controversy immediately. First of all, do you, Bishop Visarion, have anything in your files, any requests from a Sabor, from Bishop Dionisije, from a Plenum, any request, written or oral, asking that this diocese be divided into three dioceses?" His answer was, "No, we have no such requests." And I said my second request

is, "Do you have anything in your files written or oral, any request from the Sabor, from the Plenum, from Bishop Dionisije, or from any other source asking that Bishop Lastavica be appointed as Bishop of this diocese?" He replied, "We do not". I asked
9213 him why they had not notified us formally of that action. He said that evidently the notice had gone out to the editorial staff of the Glaznik. I then asked him why a public announcement had been made in Belgrade when his delegation had left for the United States concerning all the statements made about Bishop Dionisije. I pointed out a Catholic Church or any other church dealing with a controversy maintains secrecy and conducts their investigations in camera. He had no answer for that.

9219 Additional conversations were had concerning why Archimandrite Firmilian had not been appointed a Bishop instead of Bishop Lastavica and they replied that they were asking for a special Sabor to be called and that they were going to elevate additional Bishops. Dr. Safers read off a list of about 30 parishes which had raised objection to the order and I concluded by telling Bishop Vasarion and those assembled that I did not accept the order since it violated our constitution. Bishop Firmilian and Bishop Hrzistom said that they were going to try and meet with Bishop Dionisije on the following morning July
9220 5 and they were a bit apprehensive about going to the Monastery. I assured them that they would be received as fit their station, as Bishops of the Serbian Orthodox Church, and that I personally, along with Dr. Sefers and Mr. Maravich, would meet the delegation at the Monastery. On the next day, we
9221 all met at the monastery and then went to the Rustic

Manor for lunch, so that privacy could be had during the meeting. The three Bishops went into a small dining room alone and the rest of us ate in the larger dining room. After half an hour, I was called into their meeting and Bishop Vasarion stated, "We have reached an impasse. We have written in the minutes of this meeting, Bishop Dionisije refuses to answer questions unless they are submitted to him in writing and he is asking us for the charges to be submitted to him." I then mentioned to Bishop Vasarion that the minutes were not signed. I asked
9223 Bishop Vasarion if he was the author of the Penal Code and he said that he was. I then asked if the Penal Code did not prescribe that the charges should
9224 be furnished to an accused. Bishop Vasarion then stated that they would go back to Belgrade, appoint a Bishop as prosecutor, and draw up charges which would be presented to Bishop Dionisije. Bishop Va-
9225 sarion then stated that they would report to the Holy Assembly of Bishops our refusal to accept the division of the diocese and the Holy Assembly which would consider the matter. Bishop Vasarion then
9226 came into the larger dining room and I asked him if wished to meet members of the Executive Board. He said that he would and a dialogue was conducted between the Bishops and the persons there. The tenure of the questions concerned the seeming lack of freedom of the Church in Yugoslavia due to the de-emphasis of holidays and holy festivals. The
9227 Bishops compared the removal of religion from the schools in the United States to Yugoslavia but to most questions they had no answer. The meeting then adjourned. The next time I met Bishop Hrzistom was in Lackawanna, New York, along with Dr. Sefers.

This was immediately prior to his departure for Yugoslavia and we held extensive conversations. I tried to prevail on him to remain in the United States and help our diocese and not return to Yugoslavia.

I met with Bishop Firmilian in September of that year over a lunch. The tenure of the meeting was that something should be done because the church was in a very serious crisis. At subsequent meetings, I questioned Bishop Firmilian concerning an attempt through an attorney to acquire funds in one of the local banks in Libertyville. I informed him that this man was Fidel Castro's personal attorney and had Castro's son as a guest, and I asked him why he allowed this man to represent him. He said that Father Brkich had given him the name and that he realized it was a mistake. I told him that it looked very bad. He questioned me as to what would satisfy the people here, and I told him we didn't want any interference in our autonomy and that we wanted to manage our affairs as we had done in the past. He told me to write this down in my own handwriting and he would see that I would get an answer. I wrote it on the back of a menu and I believe it is Exhibit 141-B. However, he did not transmit to Yugoslavia what I wrote, which was a request for continued autonomy in administrative matters and that the constitution remain the same. Instead, he wrote that all the rights of the American-Canadian diocese with reference to autonomy in administrative matters remain unchanged with the exception of the formation of the three diocese. This was absolutely contrary to what I said, and the reply which they sent responded that my demands were perfectly acceptable as long as the three diocese would remain.

Cross Examination.

None of the three trips which I made to Yugoslavia between 1945 and 1963 were in any official capacity as a delegate of the Serbian Orthodox Church. Nor did I go at the summons of anyone in the Synod during these times. I was not sent on behalf of the Bishop of the American-Canadian diocese, but was asked by him to do certain things. I have had personal correspondence directly with the Patriarch concerning our relationship with the Mother Church. The churches which I saw that had been destroyed in Yugoslavia were destroyed during the war. Concerning the monastery of Zhica which had to be restored within one year or be condemned, I know that the Monastery was indeed restored with funds sent by Bishop Dionisije. I believe that he sent $3,000 of his own funds. As legal advisor to the diocese, I believe I was elected at the Sabors. The reference in the constitution to legal advisor is in association with the Ecclesiastical Court in the role of the church court prosecutor. That is someone other than myself as I have never served in that capacity. I do not believe the office of diocesan counsel is referred to in the constitution. I think it is an administrative internal act. The diocesan council is a body which carries out functions as interim between the Sabors. The Diocesan Assembly has another executive body called the Plenum which acts on major problems.

The Plenum embodies the diocesan committees to include the Ecclesiastical Court and some of the monastery committees. My position was for solidarity up until May 10, 1963, and I did not want to break. I thought there was something that could be done

about this and that I could help. As an individual
9254 I did not feel that I had more authority in reference to the decision reorganizing the diocese, but as a diocesan counsel I felt I was in a position to evaluate
9260 their decision. I first became aware of accusations or complaints at the meeting of the Executive Board in April of 1963. At that meeting, the matter of rumors and charges and newspaper articles was dis-
9265 cussed. Prior to the meeting in April, I had been approached by Metropolitan Damaskin concerning personal complaints about Bishop Dionisije's person-
9266 al life. However, I was not approached personally regarding personal conduct of Bishop Dionisije by any member of the American-Canadian Diocese. The resolution, which is marked Plaintiff's Exhibit 85 prepared at the April meeting, was an expression of unity of the diocese in support of the church in Serbia against any pressure by the government in Yugoslavia.

9268 Paragraph 6 of Plaintiff's Exhibit 85 concerning certain faults of a Bishop Dionisije and assumptions about his trial and discharge was inserted based on the consensus of everyone present at that
9269 meeting. Prior to this paragraph being drafted there was some discussion concerning what the Executive Board's position would be if Bishop were to be tried by the Holy Assembly, and in effect, this paragraph
9270 was the Executive Board's position. May 10th was the first information that we ever had concerning charges pending against Bishop Dionisije. I have never, prior to May 10th, had any occasion to study canon law nor have I taken any courses or theological training.

9271 I felt that the decision of May 10, 1963, was uncanonical. I came to the conclusion having in mind
9272 the constitution of the Serbian Orthodox Church.
9274 After approximately 20 years as acting as diocesan counsel, I have had occasion to review canonical questions that have come up and am familiar with
9282 some of the basic tenets of canonical law. The diocesan council's decision to refuse to recognize the suspension of Bishop Dionisije was based in part on
9283 the advice of their legal advisor. The council was comprised of men of outstanding ability who drew upon their own knowledge and came to the conclusion
9284 that the action was so patently illegal that it should not be abided by unless due process and the provisions of the various instrumentalities of the church should be followed.

Of the 41 members who were at the Plenum meeting, all but two did not want to accept this decision per se and asked that there be an investigation com-
9295 mission. Bishop Firmilian subscribed to the opinion that the question of reorganization of the three dioceses should be submitted to the Sabor or the
9296 National Assembly. At the June 6th meeting, the matter of whether or not Bishop Dionisije should preside at the upcoming Sabor was not discussed. There were objections by Bishop Firmilian that Bishop Dionisije was, in fact, presiding at the June 6th meeting while being under suspension.

9298 I believe Dr. Seferovich showed me Plaintiff's Exhibit 121 which is the letter. I do not know of my own knowledge if Dr. Seferovich ever responded to
9299 this letter of Bishop Firmilian. I believe that I did respond to it. I wrote him a letter in which I thought

it was most inappropriate to write a letter with such officiousness to a member of the council. My letter
9302 wasn't in direct reply to Bishop Firmilian's letter to Dr. Seferovich, but there was a reference to his letter in my letter to him.

I advised the Sabor held in August that Bishop Hrzistom had stated that this Sabor was legal. I
9303 do not know whether Bishop Hrzistom was aware that Bishop Dionisije would preside at that Sabor.
9304 I do not believe that the August session of the Sabor of 1963 proclaimed complete autonomy of this diocese from the Mother Church.

9307 My signature appears on page 10 of Plaintiff's
9309 Exhibit 229. I was a member of the committee for resolutions and greetings at that assembly. Plaintiff's Exhibit 84 at page 98 is a proclamation passed by the November session of the Sabor which outlines our relationship with the Mother Church. Whenever the Mother Church will be free, we will reestablish
9310 our relationship on a normal basis. The proclama-
9312 tion states that as long as the church in Yugoslavia does not enjoy its freedom, and as long as the communist government there subjects the church to slavery, and until normal conditions exist, our diocese shall consider itself autonomous from the Mother Church.

9320 At the meeting I arranged on May 27, 1963, between Bishop Dionisije and certain other members of the council, there was a discussion and a proposal by Father Brkich to the effect that the Bishop would be pensioned and placed on full salary. These people were preparing to go to New York to welcome a
9323 commission headed by Metropolitan Damaskin which got no farther than Switzerland before it was ordered

to return back. The meeting on the 27th was to consider and discuss the Bishop's suspension order. It was at this meeting that Bishop Dionisije said, "I shall be as silent as a fish", under certain conditions. I did not, at that meeting, suggest to Bishop Dionisije to acknowledge the suspension order. I
9324 believe after Bishop Dionisije was notified of his suspension he issued a statement to the American
9325 press. The meeting in September at the Illinois Athletic Club was held after our side had already filed proceedings for a declaratory judgment.

NICK STEPANOVICH, Called as a Witness under Section 60 in Rebuttal on Behalf of the Plaintiffs, testified as follows:

9329 *Direct Examination.*

9330 Defendant's Exhibit 239 is a letter which I wrote to his Holiness Patriarch German. The only other
9331 letter which I received from the Patriarch, aside from the usual holiday greetings, is Plaintiff's Exhibit 228-A. The letter was mailed August 3 and I received it about a week later during the Sabor. The
9332 letter bears the date July 25th. The postmark on
9337 the envelope is July 30th. I am acquainted with the
9338 Rev. Dushan Shoukletovich. I have known him for about 40 years. Concerning correspondence between he and myself with reference to the controversy of the diocese, I received a letter that he wrote entitled "An Open Letter" which was mimeographed. He did not extend me the courtesy of sending me a copy of the letter and I picked it up on the street from somebody who had shown me a copy. I cannot posi-
9339 tively state that Plaintiff's Exhibit No. 230 is a copy

of the open letter to which I referred. The signature
9340 appears to be that of Father Shoukeltovich, but I have not corresponded with him in 25 years and I am not familiar with his signature.

9428 BISHOP VASILIJE OF ZHICA, testified as follows:

Direct Examination.

I am Bishop Vasilije of Zhica and am a Bishop of the Serbian Orthodox Church. My diocese is located
9429 in Serbia Yugoslavia. I was born in Jovanova Velici on December 10, 1907, and attended elementary school, gymnasium and the seminary. Classmates of
9430 mine in the seminary who have become bishops include Bishop Hrizostom and Bishop Gregory. Among
9431 the subjects I pursued at the seminary and theological faculty was the subject of canon law. This is an
9432 obligatory subject in the seminary. I was ordained
9433 a priest in 1934. I took post graduate work in Athens, Greece and at the college of Theology of Patriarch of Constantinople and in February of 1937 I received
9434 my doctorate degree and returned to Belgrade. After
9436 my studies were completed I was appointed as a clerk in the Holy Synod with the duties of recording documents and acts which were passed. Then the Holy
9437 Synod transferred me to the seminary at Prizen as
9439 an associate professor. I continued to teach at other seminaries until World War II when all church func-
9440 tions came to a halt. We were occupied first by the Germans, then the Hungarians and Bulgarians. During the war the Holy Synod appointed me to Bishop Nikolai Vilimirich to assist him as his administrator. He is the same Bishop Nikolai who had been in this country. Bishop Nikolai lived at Zhica and we re-

mained there until July 10, 1941. Since he was a great friend of the English and the Americans, the Germans ordered that he not be allowed to administer his diocese and he was sent from Zhica to another
9441 monastery by the name of Ljubostinja and was confined there. I went with him and we remained there until December 16, 1942, when the Gestapo came and drove us to the monastery Voljvolvica and brought the nephew of Bishop Nikolai with us. He was a civilian. When we arrived we were placed under guard by the Gestapo. In May of 1943 the Gestapo brought the Serbian Patriarch Gabriel Djuich to that monastery. We remained there until September of
9444 1944. In September of 1944 the Gestapo removed Patriarch Gabriel and Bishop Nikolai and Bishop Nikolai's nephew and I remained at the monastery under guard. On September 24, 1944, and upon the intervention of Metropolitan Joseph, the Germans took us to Belgrade at the Patriarchate. I remained there until about the end of November when I was sent by Metropolitan Joseph to my village of Jovanova with instructions to remain there until condi-
9445 tions got better. I remained there until May of 1947 when the Holy Assembly of Bishops under the presidency of Patriarch Gabriel, who had then returned to Belgrade, elected me as Bishop of Banjaluka in Bosnia. I was elected Bishop by the entire Holy Assembly of Bishops under the presidency of Patriarch Gabriel. After my election I was consecrated and then I went to the See of my diocese. Upon my
9446 election as Bishop by the Holy Assembly of Bishops I received documentation to that effect called a
9449 Grammata. At no time did I receive any other document from the government of Yugoslavia.

I have examined DX 29A and have an opinion as to what it is. In Old Yugoslavia the state recognized the church; the church was not separated from the State and as a token or sign of cooperation between the state, when the Holy Assembly of Bishops elects someone as a Bishop, he receives a Grammata like I received and it informs the state that such a person was elected as Bishop of a particular diocese. This was more of informative nature and then the government would issue on behalf of the King a Ukazj which was not a grammata but was an acknowledgement of the civil authorities that the person had been appointed Bishop. To my knowledge from the time I became administrative clerk to the Holy Synod in 1937 to the year 1942, there was never any occasion when any document was received emanating from the Yugoslavian government after it came to power or the royal government up until the time it was deposed relating to or bearing upon the election of a Bishop prior to the action of the Holy Assembly in electing that Bishop. Since I was made a Bishop I have been elected a member of the Holy Synod four or five times. I was a member of the Holy Synod during the Sabor of 1963 held in March. Generally speaking the Bishops at meetings of the Holy Assembly of Bishops remain in residence at the Patriarchate until the Sabor is completed. There is no permanent position in the Serbian Orthodox Church which serves as a prosecutor's office. The constitution provides for a diocesan ecclesiastical Court but they are also permanent. They can be on a continual basis to go from case to case. The constitution does not contain any provision with respect to a prosecutor but the Synod appoints one as needed. The Holy

Synod of Bishops made the decision appointing me as the prosecutor in the case of Bishop Dionisije and it was my duty to write the indictment from the material that the Holy Synod had given me.

My studies included the history of the Serbian Orthodox Church. I am not aware as to whether or not there have been prior occasions in which the Holy Assembly has had proceedings with respect to Bishop Dionisije. I do not know whether prior to this time there had ever been a proceeding for the defrockment of a member of the Holy Assembly of Bishops. I am familiar with PX 16A which refreshes my recollection that I was appointed by the Holy Synod of Bishops to write an indictment concerning Bishop Dionisije on the third of September 1963. As a member of the Holy Assembly of Bishops I was obliged also to participate in the trial. The Holy Synod of Bishops provided me with material from which I prepared the indictment. In general categories the documents from which I drafted the indictment concerned first the renouncing of obedience from the highest church authorities both the Holy Synod and the Holy Assembly and secondly the Bishop's behavior and the conduct of his life which is unbecoming to a high church dignitary.

Based on my personal knowledge of the history of the Serbian Orthodox Church, I do not know of an instance where there has been a defrockment of a Bishop prior to that of Bishop Dionisije. I reviewed and read everything which was included in the indictment. The indictment was prepared from letters, articles from newspapers, statements by various people and clergy who were complaining about the life and activities of Bishop Dionisije. The Holy

Synod provided me with all reports and material on Bishop Dionisije and I did not have to consult with anyone in the preparation of the indictment.

(Offer of proof.) In preparing this indictment I considered Plaintiff's Exhibit 74 and 75. I also took into consideration some of the items in Plaintiff's Exhibit No. 8 which can be seen from the indictment itself. I can't recall whether I took every single point or whether I used all the points but the ones I used are in the indictment. Apart from the question of what I used I considered all of the items in preparing the indictment set forth in Plaintiff's Exhibit No. 8 (End of the offer of proof.)

After I prepared the indictment I forwarded it to the Holy Synod which sent it on to Bishop Dionisije. The enclosures, which reference is made in the indictment, marked Plaintiff's Exhibit 16A were not sent to Bishop Dionisije. He was only sent the indictment. According to the regulations of the Church only the indictment and not the enclosure are required to be sent. I believe this is covered in paragraph 49 of article 69 of the penal code. In point 3 of article 69 it specifies what an indictment should contain when it is sent to the accused and it states: "The indictment must contain the offensive act described by time, place, manner of committing or manner which it was committed for which the accused is charged with, its characteristics which are necessary for the application for the penal regulations of these rules."

There is no provision in the penal code in article 69 or 70 which requires the enclosures referred to in the indictment of a Bishop to be transmitted to the Bishop with the indictment. There is nothing in the

constitution of the Serbian Orthodox Church or the Canons applicable to the Church or the customs, practices and regulations of the church, whatever they may be that in my opinion require enclosures referred to in an indictment of a Bishop to be transmitted to the indicted Bishop along with the indictment itself.

VASILIJE, BISHOP OF ZHICA, testified:

Direct Examination (Continued)

The Holy Assembly of Bishops of the Serbian Orthodox Church is empowered to interpret the canons, penal code and constitution of the church. There is no other body with such power. After such an interpretation has been made it is not subject to review by any church, or civil authority. I base that statement on the fact that the assembly is the highest body which renders decisions and regulations in the church. Its interpretations and regulations are then executed by the Holy Synod or transmitted directly to the Diocesan Bishops who apply them to the life of the Church. The constitution of the Serbian Orthodox Church supports this position, as do the canons. The Holy Assembly did not provide Bishop Dionisije with a supplemental indictment as he had not replied to the first indictment over a period of two months. It was felt that he would not respond to the supplemental indictment either and the offenses which are cited in the supplemental indictment are those which he himself admitted in his circular letters and his decisions which he published and which he sent to us. I participated in the meetings of the Holy Assembly of Bishops at which the indictment with respect to Bishop Dionisije was considered and

acted upon. I cast my vote with the other members of the Holy Assembly of Bishops for the defrockment of Bishop Dionisije. I was permitted by the canons of the Orthodox Church to prepare the indictment and transmit it to the Holy Assembly of Bishops and then sit in judgment with my fellow Bishops in respect to Bishop Dionisije.

9584 It is my opinion that Article 77 of the constitution of the Serbian Orthodox Church does not apply to the Holy Assembly when it is sitting in judgment of an indictment against a fellow Bishop. I main-
9585 tain that this provision only applies to lower courts but that the Holy Assembly as the highest judicial body does not fall within the purview of this article.
9586 It is my opinion that the great ecclesiastical court does not have jurisdiction to sit in judgment upon a
9587 Bishop of the Church. Concerning whether or not the enclosures to the indictment must have been provided to Bishop Dionisije it is my opinion that Article 67 of the penal code and in particular the last paragraph thereof has no application to an indictment against a fellow Bishop. The last paragraph
9588 of that article has to do with the investigation and not with indictment. Article 69 is applicable and states precisely what goes into an indictment. In no case written information, submission of enclosures forwarded with the indictment.

9589 I am familiar with PX 232A and can state that this was among the documents I used in preparing the
9590 indictment. I am familiar with the hand writing of the individual who prepared this document as we were class mates at the Belgrade Theological Faculty. He is known by a lay name and a clerical name.

He is Hiermonk Arsenije and is also known as Professor Mihailo Toshevich. The original of PX 232 is contained among the books and records and documents and archives of the Holy Assembly of Bishops in the Holy Synod in Belgrade. PX 232A is a true,
9591 correct and accurate xerox copy of the original docu-
9600 ment. An interpretation made by the Holy Assembly of Bishops regarding the canons or constitution or penal code of the Serbian Church is binding upon all the individual members of that assembly, in my
9601 opinion. Were a member of the Holy Assembly to refuse to honor an interpretation of the canons, constitution and penal code made by the Holy Assembly, he would be subject to discipline. This would be a matter requiring an indictment. Such an offense by a Bishop would be sufficient for the Bishop to be de-
9602 frocked. I believe the 74th rule of the apostolic rules
9603 supports this opinion. The apostolic rules are the
9605 canons of the church. In preparing the indictment I
9606 employed newspaper clippings. I used those articles and writing because they also appeared in documents written to me personally. We also did not receive a written reply from Bishop Dionisije that these articles were not true.

9609 *Cross Examination.*

Article 69 of the Church Constitution at point 27A deals with rules which apply to the trial of a Bishop
9610 for canonical offenses. Referring to the Holy Synod of Bishops in Article 70, sub paragraph 35 sub points (a) and (b) also covers the point in question.
9611 The penal code applies as it would in the case of a Bishop judging in his Diocese or the great church court judging lower clergy persons. I feel that for

disciplinary offense a Bishop would be tried by the Holy Synod with the right to appeal to the Holy As-
9613 sembly. In article 90 of the penal code which states that in those cases provided for in Article 69.27 and 70.35 of the Constitution of the Serbian Orthodox Church the rights of the Diocesan Bishop as provided for by these statutes shall be assumed by the Holy Assembly of Bishops respectively, the Holy Synod of Bishops according to the regulation of the Constitution of the Serbian Orthodox Church and the regulations of these bodies for conducting business applies only to the agenda and not the affairs.
9614 I drew my indictment according to the procedures of these provisions and I believe it was drawn in a true, correct and proper form. In the event that the
9615 indictment was not properly drawn according to the revisions of the constitution and penal code the Holy Synod of Bishops would have returned it to me with comments to correct it. In this instance the indict-
ment was not returned to me for any addition or cor-
9618 rections. If I drew an indictment against the Bishop which was not properly in accord with the articles of the constitution and the penal code it is my expert opinion that such an indictment could not be-
9620 come effective. In accordance with Article 70.35 sub paragraph B, I provided in the indictment against Bishop Dionisije, which is PX 16, that the Holy Synod was the Court to judge Bishop Dionisije in the
9621 first instance. 35-B applies in the first instance of canonical offenses of Bishops. This assumes that the Holy Assembly of Bishops would be the Court to judge the accused in the second or last instance. I cited Article 69 of the penal code when I stated that the indictment did not have to be accompanied by

other documents. I specifically pointed out sub paragraph 3 which provides that the transgression described should be described according to time, place and manner committed, and it characterizes which are necessary for the application of the penal regulations of these statutes.

9622 I conformed the indictment against Bishop Dionisije to the provisions of section 69.3 of the penal code, in my opinion. I have examined page two of
9623 PX 16A. There are red penciled numbers in the left hand margin. Number 1 in red is next to a paragraph which begins with the name "Jovan Dutch-
9624 ich". The quotation of Jovan Dutchich states "There are persons blind for colors, but this one is blind for
9625 morals." Regarding whether or not I cited the time and place when the statement was made I wish to say that this was taken from the enclosure of Dushan Popovich in which he cited what different people said. Therefore it was not necessary for me to cite
9626 the place and time. The time and place where this statement was made was set forth in Dushan Popovich's letter. Popovich mentioned Gary where there was a gathering of some kind and again he cites the words of Jovan Dutchich "If this, our Bishop, were a woman, he would have a little booklet." The para-
9627 graph number four in this document does not say
9628 the place or time. I have examined page three of this document, the paragraph marked with the red penciled number six which begins "this part of Jevdjevich's article."

9630 I have also examined DX 74A, and concerning the incident which occurred in the car, I can state that I left out the names of some of the witnesses to this occurrence when I transposed it from Popovich's

letter into the indictment. The two names left out were Stephen Mihailovich and Milutin Kostich. In compiling the indictment I also used unsigned letters or complaints, but these submissions were brought and handed to Metropolitan Damaskin when he was in the United States and he was requested to accept them without signatures because the people were afraid of retaliation by Bishop Dionisije. Article 65 of the penal code states that unsigned submissions will in no case be taken into consideration, but I do not believe that it applies in this case. I did not have any discussions with Metropolitan Damaskin before I prepared the indictment because he submitted his report to the Holy Synod. I got my information that Metropolitan Damaskin had been assured that there were witnesses to support these unsigned submissions through his report of this to the Holy Synod of Bishops. I do not know whether that report to the Holy Synod by Metropolitan Damaskin was oral or written. I was a member of the Holy Synod in 1960, 1961 and until May of 1962. I never saw the names of persons who were prepared to support the unsigned complaints as those were private letters which remained with the Metropolitan. I do not know if Metropolitan Damaskin recorded the names of these people who supposedly can support the unsigned complaints prior to his death. It was my position in 1956 that unsigned submissions and paper clippings could not be used in making charges against either a Bishop or any other priest. I have examined DX number 184A which is a private letter by me to a Christmas card which Arsenije had previously sent me. In that letter the person I was referring to when I said "Nothing can be undertaken here until either a judgment appears" was Bishop Dionisije.

In the period of time prior to 1956 I had been receiving private letters containing charges against Bishop Dionisije. On one occasion I turned over one of these letters and Bishop Dionisije learned about this and called the party who had written to me and threatened him. This person was Nikanor Balach who was a monk whom Bishop Dionisije later defrocked. I did not submit my personal correspondence to an appropriate church body for investigation at the time I received them. And especially so after this letter which I gave to the Synod when I found out how Bishop Dionisije acted toward the gentlemen who had written it. It is another matter that the gentleman I mentioned was defrocked because he got married. His marriage occurred later. I only recall this one instance of having turned something over to the Holy Synod and I cannot recall the exact date. I believe it was in the fifties and I had been a member of the Holy Synod during the fifties.

There were not any charges of which I am acquainted that the Holy Synod officially sent to Bishop Dionisije requesting a reply. Someone may privately have informed him but there wasn't any obligation for me to submit my personal correspondence to the Synod as they received submissions directly. It was not always the custom to send the charges to Bishop Dionisije for reply but from time to time they were sent and sometimes a reply was not requested but only a warning sent. Some of the communications from Patriarch Gabriel, Patriarch Vikentije and German that went to Bishop Dionisije warned or requested Bishop Dionisije not to engage in political

activities. Occasionally during the fifties I had communications with Bishop Dionisije. In my correspon-
9650 dence with Bishop Dionisije I did not advise him that I had personally received communications from persons in the United States making charges against him.

9651 I am familiar with canon 74 of the Apostolic Canons which states that when a Bishop is accused of something he must be summoned by the Bishops and if he refuses to obey he must be summoned the second time by sending two Bishops to him and even then if he refuses to obey he must be summoned a third time by two Bishops again being sent to him and only after that if he fails to answer or respond may the Synod decide the matter against him, even though he fails to appear. I have stated that it was
9653 the duty of the Holy Assembly of Bishops to interpret the constitution, penal code and the canons of the Serbian Orthodox Church and I believe that it is self evident and clearly flows from the canons themselves that the highest authority for interpreting is
9659 the Assembly. I did not have a private opinion and do not feel that I am authorized to state whether or not the Holy Assembly is infallible.

9660 Since I became a Bishop in 1947 there has been no written statement that the Holy Assembly is in-
9661 fallible. Article 60 of the constitution states the decisions of the Holy Assembly and Holy Synod on canonical or ecclesiastical matters are valid and final.
9664 I have no opinion but the position of the Holy Assembly of Bishops is that a Bishop is obliged to abide by every decision the Holy Assembly and Synod
9666 renders. Under article 65 of the constitution un-

signed submission would not be taken into account. Article 67 permits oral reports and unsigned statements which might provide an investigating bishop with information indicating to him that a more thorough investigation should be undertaken. It is my opinion that article 67 has reference to the in-
vestigatory stage of the proceedings. The penal code
9667 states that copies of complaints may be given to the accused but not that they must. It is and has been
9668 the custom since the adoption of this code in 1961 and prior to its adoption under the old code to furnish persons accused with copies of complaints in the course of the investigation so that the accused can respond thereto.

9672 I prepared a supplement to the original indict-
9673 ment on March 5, 1964. This supplement was not
9674 reduced to writing but was delivered orally before the Holy Assembly of Bishops and of course Bishop Dionisije was not there. The supplement was not
9675 sent to him. Based on my experience in connection with ecclesiastical courts, indictments against the accused have been presented orally by the church prosecutor in certain circumstances. This would occur only if there were supplements as there were in this case and they were not always sent. I voted in
9676 favor of the judgment which was rendered against Bishop Dionisije on March 5, 1964 and Metropolitan Damaskin, Bishop Nikanor, Bishop Hrizostom and Bishop Vasarion all voted in favor of that judgment.
9677 All of the Bishops of the Serbian Orthodox Church with the exception of Bishop Dionisije voted on that judgment which was rendered against him. The three Bishops who were consecrated in the United States that is Bishop Firmilian, Bishop Gregory and

Bishop Stefan did not participate in the judgment as they did not attend the assembly meeting. The Macadonian Bishops by regulation are not members of the Holy Assembly of Bishops of the Serbian Orthodox Church. As antonomous they are part of the Serbian Orthodox Church. They are an integral part, autonomous but within the Serbian Orthodox
9679 Church. I did not know of any proceedings instituted against the Bishop prior to those instituted against Bishop Dionisije. Those concerning the Bishops in Macedonia occurred after that of Bishop Dionisije.

9683 At the time I was elevated to the rank of Bishop in 1947 the Tito government was in power in Yugo-
9684 slavia. When Yugoslavia was a kingdom the church was not separated from the state and there was an agreement between the church and state that when the assembly elected a Bishop and the Patriarch was two or three bishops would consecrate him they would issue to him with their signatures a Grammata of his election and consecration. Then in behalf or in the name of the King the government would issue a Ukos whereby the state authorities were informed that the respective person was elected by the church and that the state did not object to this election or
9685 appointment. The Ukos only confirmed the appointment. There was a provision in the constitution of 1931 which referred to this confirmation by the state. I was first advised I was going to be called as a witness in this case in March of this year. To come to
9686 testify I was not required to get clearance by the religious affairs commision of the government but only required a passport and a visa. Since my ar-
9687 rival in the United States I have had occasion to

visit the Monastery in Libertyville. I believe the
9688 first time was on June 2nd. The second time was on the church memorial day.

9692 *Redirect Examination.*

To my knowledge in the history of the church the Holy Assembly has never called a fellow Bishop to
9693 account. To my personal knowledge no Bishop of the Serbian Orthodox Church has ever been defrocked with the exception of Bishop Dionisije. Con-
9694 cerning the Holy Synod sitting as a court of first instance in proceedings defrocking a Bishop the penal code makes no reference. In the church constitution there was a reference which was not in practice and it is now indicated that only the Holy Assembly can judge in the assembly by its decision has in effect eliminated the provision that the Synod judges in the first instance. I earlier stated that an
9695 indictment drawn against a Bishop for his defrockment was not in accordance with the constitutional or penal code would not be effective. After I wrote the indictment I gave it to the Holy Synod who read it, reviewed it and ascertained that it complied with all the formal regulations of the church. Had the Holy Synod decided that it was not in accordance with the regulations of the Church it would have returned it to me with instructions as where correc-
9696 tions should be made. In view of the fact that the Holy Synod sent the indictment for reply, I believe this confirms that the indictment was properly writ-
9697 ten. If the Holy Assembly were to adopt an indict-
9698 ment, in my opinion, that indictment must become
9700 effective. In my opinion, once an indictment of a Bishop of the Serbian Orthodox Church looking to

defrockment is voted upon and approved by the Holy Synod and accepted by the Holy Assembly of Bishops it cannot be in violation of any canon or rule or regulation of the Serbian Orthodox Church or its constitution or penal code.

9704 I have examined PX 16A and find the following: "Enclosure No. LV from the Article 'The Black
9705 Dionisije' of Dobroslav Jevdjevich in paper; 'The Serbian Independence, No. 159 of 1961 page 219.'" PX 233A is identified in PX 16A.

9711 (Offer of Proof) When I prepared the indictment and in particular pages two and three thereof I had before me in its published newspaper form as it appeared in the "Serbian Independence No. 159 of 1961, page 219" the article entitled "The Black Dionisije." Dobroslav Jevdjevich was a Vojvoda of the National Forces of Chetniks who fought against the occupiers during the last war. Vojvoda means the highest rank in the army.

9714 I testified that I did not include the names of Mr. Mihailovich and Mr. Kostich as well as other names in the indictment. These men were witnesses to a discussion between two others who I named and did not feel that the witnesses need be specifically de-
9715 scribed. I have stated that in general in investigations in Church Courts, Ecclesiastical Court and Lower Church Courts ordinarily it was the custom and practice to transmit the complaints and submissions to the accused. However, in this case the Synod did more by sending two Bishops with the material to see Bishop Dionisije but he refused to reply at all. (End of Offer of Proof)

9716 *Recross Examination.*

9720 "Stipulation by Plaintiffs that an action was taken subsequent to Bishop Dionisije's defrockment against the Macedonian Bishops."

9721 I became Bishop of Zhica in 1961. When I arrived
9722 at that Diocese I found everything in order at that time. I had occasion to file an accusation with the Holy Assembly concerning some funds which in my opinion were missing. The Civil Courts sen-
9723 tenced the guilty party for six years of imprisonment and after serving part of the sentence he was released because of illness and died about two years ago. My predecessor as Bishop Zhica is the man who is today Patriarch German. He is not the one
9724 against who I made the accusations when I first took over the Diocese.

9727 I filed a report with the Holy Assembly of Bishops concerning funds missing from my Diocese. The report concerned the secretary who was responsible and the treasurer of the Diocese and the Civil Court sentenced the Treasurer. When I first made the re-
9728 port I did not ask that the former Bishop of the Diocese that is Patriarch German give an account-
9730 ing. The Holy Synod is no longer the Court of first instance in the case of proceedings against a Bishop. This case will be held before the Assembly in matters of a serious canonical nature.

VISARION KOSTICH testified as follows:

Direct Examination.

I am the Visarion Kostich who testified last year
9734 in this case and I am the author of the penal code of the Serbian Orthodox Church. Canonical offense of
9735 a bishop is not judged in the first instance by the

Synod. There is no provision in the constitution requiring judging by the Synod in the first instance.
9736 The bishop is judged by the Assembly. The Synod functions as a diocesan bishop. The work of the Synod is under the control of the Assembly. The Synod is one of the executive organs of the Assem-
9737 bly. Every member of the Assembly has a right to appeal from disciplining by the Holy Synod to the Assembly. There is no appeal from a decision of
9738 the Assembly. Part of Article 63 of the penal code
9739 refers to discipline of a bishop. The Holy Assembly may not undertake prosecution of the defrockment of a bishop and render judgment without submitting the matter to the Holy Synod. The Synod investigates the matter, reviews the papers and informs
9741 the Assembly. When the Synod examines the complaint and the indictment and reply and finds that all of this now exceeds its competency it forwards it to the Holy Assembly. The Assembly appoints a committee which considers the matter and then it goes to the whole Assembly for decision. The deci-
9742 sion is then entered in the minutes. The Assembly
9745 ordered the Synod to initiate proceedings. There is no rule which prohibits a bishop from participating in the judgment of a fellow bishop. There is no rule which prohibits the member of the Holy Assembly
9746 who drafts the indictment from participating in the hearing and sitting in judgment. All bishops are obliged to sit in the judgment. This includes bishops
9747 who participate in the invetsigation. There are canons that speak of the work of the Assembly. A bishop
9748 who is being judged cannot attend the meeting of the Assembly.

9749 Only the text of the indictment need be sent to a bishop. It is not required that the complaints or documents that are identified in the indictment be
9750 sent to the bishop. PX 17A was prepared by us on the authority of the Assembly of Bishops. There are no regulations which authorize this communication. The penal code provides that one cleric cannot
9751 insult or slander another. PX 17A is not slanderous, it is "pure truth." There is no provision of
9754 the constitution or penal code that prohibits the Assembly from considering complaints more than three months old. Article 61, paragraph 2 of the penal code which provides "a private" complaint may be submitted within three months counting from the day when the injured party first learned of the committed act and of its perpetrator" does not ap-
9755 ply to the work of the Assembly or Synod, because
9757 the church is the accuser. Articles 60 and 61 of the penal code do not apply to proceedings against a
9760 bishop looking to his defrockment. The jurisdictional organ in the case of a bishop is the Assembly. The
9761 constitution and the penal code do not prohibit unsigned or unsworn complaints against a bishop being taken into consideration by the investigators. Ar-
9762 ticle 65 of the penal code refers to documents submitted in court. There is no provision requiring that the proofs cited in the indictment must be transmitted to the accused. The Holy Assembly always has
9763 the right to reorganize dioceses. When a diocesan bishop is under suspension he automatically does not participate as a member of the Assembly. What I
9765 have said would be applicable to 1962, '63, '64 and '65. The Assembly of Bishops is not infallible.
9766 There was a supplemental indictment of Bishop

Dionisije. It was not served upon Bishop Dionisije. This did not violate the rules of the church. If the person who is to be heard refuses to participate in the proceedings the offense is taken as admitted. When the bishop refused to participate he placed himself outside the church and therefore we didn't send him the supplementary indictment. A defrockment is final.

The Serbian church has not rendered a specific decision about birth control. In my opinion PX 127A is not an appointment of Patriarch German as the administrator of the dioceses mentioned in PX 126A. An administrator does not have authority to give dispensations when he is not a bishop. Bishop can, for example, permit a marriage during Lent. A clergyman is not obliged to submit to somebody who is no longer a bishop. A cleryman would be subject to penalties if he did. A clergyman who has been properly defrocked cannot be restored to rank. The procedures against Bishop Dionisije did not violate the 17th canon of the Fourth Ecumenical Council. The procedures against Bishop Dionisije were not in contradiction of apostolic canon 74. Canons 13, 14 and 15 provide for separation from the bishop who preaches schism. The proceedings against Dionisije did not violate these three canons. The 17th canon of the Fourth Ecumenical Council was not violated by creating three new dioceses. (PX 236, 237 and 238 are offered and received in evidence.) I do not recall an Archbishop Paul who was defrocked in the sixteenth century. There was a Bishop George who died as a bishop. There was a Metropolitan Michael who lived in 1883. He was not defrocked. There was a Bishop Sergis. I did

not hear that he had been defrocked but Bishop Vasilije would know more details about him. I know a Bishop Dimitri. He was pensioned and we buried him as a bishop in retirement. He was not defrocked.

PX 196 is the report Bishop Hrizostom and I prepared in Youngwood on July 20, 1963 for the Synod. The handwriting on it may be that of Zivan Stefanovic.

Bishop Dionisije refused to sign the minutes as bishop of the Midwest diocese. I do not recall if Bishop Dionisije said he refused to sign the minutes of the Midwest diocese. There was nothing said about the minutes not stating bishop of the Midwestern diocese. PX 196 is a true and accurate copy of the original.

At the Indian Club we did not say to Bishop Dionisije that we did not have the complaints referred to in the indictment. Bishop Dionisije did not ask to see the documents. I was employed in the Holy Synod in 1938 and 1939. I helped prepare the grammata which was issued to Bishop Dionisije. PX 29B is not Bishop Dionisije's grammata that I helped prepare. The grammata is a written document issued by the church justifying that someone was consecrated into the rank of a bishop. A grammata signed by the Patriarch and the members of the Synod. PX 23A is a grammata of the Serbian Orthodox Church in its newest form. A tax was paid in 1938 and '39 by the bishop to the church for the issuance of a grammata. I had occasion to search for a receipt that Bishop Dionisije paid the tax. I first saw PX 239A when it was registered in the Archives of the Synod. The signature at the bottom is that of Bishop

Dionisije. In the upper left hand corner of PX 240A
9850 is the number 5623. This is the reference number
9851 of the Holy Synod. It is signed by Metropolitan Joseph and it has the coat of arms of the Serbian
9852 Orthodox Church and the seal of the Patriarchate.
9853 When a priest is elected a vicar or bishop he has to pay a tax and a grammata is issued.

(The witness translates portion of PX 240A "for the decree for the election of in position of vicar bishop of his Holiness Patriarch." Defense counsel notes that the English translation uses the word "grammata" instead of "decree".) (Court accepts
9864 PX 239A, 240, 240A and B in evidence.)

9866 The Serbian word for decree is spelled "decrete."
9868 The Serbian word for grammata is spelled "gramata". The word "decrete" does not mean decree
9871 in this exhibit. In 1940 and '41 bishops were paid by the central treasury of the church. I reviewed
9872 the Archives of the church with reference to Bishop Dionisije being paid as a bishop. PX 241A bears the coat of arms of the church, is dated February
9873 13, 1940, and bears the signature of Metropolitan
9876 Joseph. The first words at the top of PX 242A is "receipt". It bears the signature of Bishop Dioni-
9878 sije. PX 242A bears the handwriting of Bishop
9880 Dionisije. There is a signature of Protopriest Plagich. I assume the accounting department signed it. This is a true and correct copy of the original in the Archives.

BISHOP VISARION KOSTICH testified as follows:

Cross Examination.

9884 In my opinion canonical offenses of a bishop are not judged in the first instance by the Synod. The Synod, after the Bishop Dionisije case, judges only
9886 eventual disciplinary transgressions. Articles 69 and 70 of the constitution have been changed so that canonical offenses of bishops are judged by the As-
9888 sembly now. The Assembly in judging Bishop Dionisije acted both in the first and in the second instance.
9890 Article 70.35 of the Serbian Orthodox Constitution was not used in 1963 and 1964. The matters which the Synod were to judge in the first instance were written in the constitution in 1963 and 1964 but these provisions were not enforced. Article 70.35 of the
9891 constitution refers to the Synod's judgment in the first instance of canonical offenses of a bishop. It was written there since 1947.

9892 The paragraph in the indictment (PX 16A) entitled "Authorized the Holy Bishop Synod" is not
9893 false. This paragraph in the indictment is based upon the regulations of the penal code of the Serbian Orthodox Church, Article 90. The Holy Assembly of
9896 Bishops did not judge any cases in the second instance in 1963.

69.27B of PX 68, the Serbian Church Constitution,
9897 was in force in 1963. This paragraph is a remainder of the constitution of 1931 which provided that the Assembly considered the marital matters of the royal
9900 family in the second instance. (This Court states to Bishop Visarion that it has the impression that he is
9901 becoming "irked" by his position as a witness and requests the Bishop to give direct and unequivocal responses and to answer with a yes or no when that

is possible. Witness states that he feels that requiring
9902 a yes or no answer from him is being rude). I recall testifying Monday that there is no provision of the constitution or penal code which provided that the Assembly judged in the second instance in the case of canonical offenses of bishops involving defrockment. Chapter 9 of the judgment indicates that the
9903 Assembly acts as the court for the judgment of bish-
9904 ops. This provision in the judgment has not been placed in the constitution or the penal code as yet.

I testified that in my opinion the Synod acts as the arms of the Assembly or as a technician under the control of the Assembly in cases involving the canonical offenses of a bishop leading to defrockment. The Holy Synod is not an independent branch of the Ser-
9905 bian Orthodox Church. I have read Article 59 of the constitution of the Serbian Orthodox Church. Article 59 does provide more or less that the Synod is the highest executive body of the Serbian Orthodox Church but that doesn't preclude the Holy Assembly of Bishops as a supreme authority in the church from acting on things which were transferred to the Synod
9907 because the Assembly was not in session. Article 59 provides that the Holy Synod is the highest executive body of the Serbian Orthodox Church. Article 57 pro-
9910 vides that the Holy Assembly is the highest legislative body of the church. The highest judicial authority for the trial of transgressions of priests and civilians in the Serbian Orthodox Church is the High Judge Court, the Supreme Church Court. Article 71
9911 refers to this court. The reference in Articles 71 to cases which come before the jurisdiction of the Holy
9912 Bishops' Assembly and the Synod is a reference to offenses of bishops.

I recall testifying that in my opinion Article 73 of the penal code provided that the Synod was to perform technical functions on behalf of the Holy Assembly of Bishops in the prosecution of canonical of bishops. This is clarified in Article 90 of the penal code. Atricles 90 and 63 are the only two which refer
9914 to the jurisdiction of the Assembly or Synod in the penal code as far as it can be applied in cases of bishops considering canonical regulations. The Assembly has the supreme authority to assume the rights of a diocesan bishop under Article 90. There is no regulation in the constitution which points out when the Holy Assembly would act as diocesan bishop but Article 69.29 says that the Assembly does other business according to this constitution and according to the canonical regulations. The Holy Synod acted
9915 as a diocesan bishop in the case of the trial of Bishop Dionisije. I recall testifying that in my opinion the
9916 Assembly of Bishops orders all proceedings involving the defrockment of a bishop. The investigating commission was appointed by the Holy Synod. The prosecutor was appointed by the Holy Synod. The indictment was returned by the prosecutor to the Holy Synod. The extension of time for Bishop Dionisije to
9917 answer the indictment was given by the Synod. The
9918 indictment was drafted under Article 69 of the penal code. There are no regulations which prevent a bishop from taking part of the judgment. All members of the Assembly save for the members involved in the case takes part of the judgment. There are no provisions in the constitution or the penal code which provide that all members are to participate. There is only a basic canonical rule that in a judgment all bishops of the church take part. Bishops Firmilian, Gregory and Stefan did not vote on the judgment. None of

the Macedonian bishops voted on the judgment. Three bishops from America and three from Macedonia failed to vote in the judgment against Bishop Dionisi-
9920 je. Article 77 of the constitution was in force and effect in 1963 and '64. Article 77 refers to the Su-
9921 preme Judicial Courts which judge offenses of the clergy, monks and laymen and matrimonial disputes. It is my opinion that in the case of the trial of a layman or a monk or a priest a member of the court who has participated in the investigation or who is personally interested may not vote in the judgment but that in the case of a trial of a bishop such a person could vote on the judgment.

9922 In my opinion the indictment satisfied the requirements of Article 69 of the penal code. In my opinion
9926 the Holy Assembly of Bishops was required to comply with the provisions of Article 69 of the penal code in the proceedings against Bishop Dionisije. If the
9927 Holy Assembly found that the indictment didn't satisfy the requirements it could return it back to the Synod and the Synod would send it back to the prosecutor who would comply with the remarks of the Assembly.

9929 BISHOP VASARION KOSTICH testified as follows:

(continue—cross-examination)

I do not know Dr. John Meyendorf but I have heard his name, but I have not read any of his books
9930 or treatises. I cannot recognize him as an authority as I only know him by name. I am not acquainted with what text books any teacher in theological school uses and do not know if any of his books or treatises are used as text in any Serbian Orthodox Seminary.

9931 I testified that there is no Appeal from the decision of the Holy Assembly of Bishops regarding a defrockment of a Bishop.

9931- (Offer of Proof) Dr. Meyendorf's testimony that
9935 there is a right of Appeal under Canon 9 and 17 of the Fourth Ecumenical Council, that if a Bishop is dissatisfied with a decision of his immediate superior, he may Appeal the Judgment to the Exarch of the Diocese or the Bishop of Constantinople is correct as far as it relates to a metropolitanite council, but if it was a patriarchal council, there is no Appeal. (End of Offer of Proof.)

9937 Offer admitted.

9940 In my opinion Canon 9 or 17 of the Fourth Ecumenical Council have no application to the right of Appeal from a decision of the Serbian Orthodox
9941 Holy Assembly of Bishops. There is no article of the Constitution or Penal Code which provides that there shall be an Appeal from the decision of the Holy Assembly of Bishops regarding the defrock-
9942 ment of a Bishop. It is not written anyplace. Ar-
9943 ticle 70 of the Penal Code applies to the binding affect of the matter in the proceedings against Bishop Dionisije. In my opinion statements or complaints from witnesses need not be enclosed with the indictment. It is my opinion that the accused need not be given copies of the statements of witnesses at the Hearing by the investigator. They don't have to be given.

9944 The 74th Apostolic Canon have application to this
9945 case and related Canons. Canon 74 requires that the Bishop be summoned by two fellow Bishops on three separate occasions and had application at the time and for the case for which the Canon was issued. In

the interpretation of the Canon it is said that later it was considered sufficient that it be in writing. Everything is said in the interpretation of that
9946 Canon. A Bishop is summoned before all of the Bishops and by the Bishops.

9947 Bishop Dionisije was not given notice of or invited to the March, 1964 Assembly of the Holy Assembly of Bishops. Bishop Hrizotom and I summoned Bishop Dionisije to take from him the words relating to the acts, and documents relating to the charges against him. He was not summoned for the trial.

9948 (It is conceded by attorneys for the plaintiff that the indictment wasn't prepared and voted on until the Fall, 1963.)

9949 I do not recall that I testified that it was my opinion that unsigned and unsworn enclosures or statements may be considered by the investigators and incorporated into the indictment.

9950 Unsigned statements may be considered even though the author of them may be ascertained. After inspecting defendant's Exhibit 61-A, I cannot say who the author of that document is.

9951 This document was written by the person who says in connection with their talking together that according to our own wish I send you this information. Probably that is Bishop Damaskin. The document is signed "admirer", it is an enclosure to the indictment and it is not signed. It is enclosure #32.

9952 I cannot answer by whom the document was written.

9953 I testified that the Holy Assembly of Bishops has the authority to recognize Dioceses.

In 1963 the Holy Assembly of Bishops had the authority to amend the Constitution of the American-

Canadian Diocese without the approval of the Sabor of the Diocese. That is not my opinion.

9954 That is law and Constitution says it has the right and it doesn't enumerate any exceptions.

9955 There is no article which states that the Council of Bishops has a right specifically to amend the Constitution of the American-Canadian Diocese.

9956 My first contact with Bishop Dionisije in the proceeding was when we arrived in Libertyville at his house.

Q. You had been appointed the investigator along with Bishop Hrizostom by the Synod, is that not correct?

A. Yes.

Q. Did you receive any oral direction from the Synod?

A. We received written directives.

Q. Did you receive any oral directives from the Synod?

A. In general there were discussions concerning the matter.

Q. Weren't you told to do what was necessary?

A. Yes.

Q. Did you receive any oral directions from the Holy Assembly of Bishops?

A. When we discussed this matter there was much discussion about it and there were various suggestions that were made.

9957 There was a meeting in 1963 in the month of May and in the month of July. I don't remember if there was one in June of 1963.

When we went there was no senior or junior person. Bishop Hrizostom was consecrated 16 days earlier than I was. The Bishop is alive and well but did not come to testify.

9958 This is the second time that I have come to Amer-
9959 ica to testify. I don't remember if I got any documents from Bishop Dionisije on July 5 of 1963.

9960 I don't remember Defendant's Exhibit 258-A as a copy of the document given to me by Bishop Dionisije on July 5, 1963. Plaintiff's Exhibit 197 is a copy of my report to the Synod. I do not remember if enclosure #3 is Bishop Dionisije's letter which is marked as Defendant's Exhibit 258-A. Defendant's
9961 Exhibit 258-A may be the documents given to me by Bishop Dionisije on July 5, 1963.

Bishop Hrizostom and I were the authors of the proclamation issued on July 6, 1963 known as Plaintiff's Exhibit 17-A.

9965 I don't think that I served on the Legislative Committee that made recommendations to the March, 1964 meeting of the Holy Assembly.

9967 I testified that a Bishop once defrocked cannot be restored to his rank as the Doctrine of the whole Orthodox Church and the Serbian Orthodox Church. I know of no Orthodox Bishop who has been defrocked and restored later.

9968 Deposed and defrocked do not mean the same thing in the Canons. To depose is a stern action. In Article 111 both terms are used. Deposed means prohibited from executing the duties.

9969 The word defrocked is used in the Canons of the Orthodox Church and it means to deprive one of his episcopal office or rank. I read about Patriarch Photius about 1054 A.D. but I don't remember the details. I don't recall that he was defrocked. I am familiar with the book "Church History" by Eufippius Popovich. It is not a recognized text studied and recognized by the Serbian Orthodox Church. I

did not attend Seminary. I studied at Belgrade University. I read his book. The book handed to the witness is the same book that he studied.

9971 The incident with Patriarch Photus did not occur in 1054. It occurred around the year 860. Only those who have studied the history of the Church can discuss it.

9976 (Offer of Proof)—A Bishop that is defrocked by the Council of Bishops is defrocked. His office may not be restored to him. A Bishop that was defrocked by a Council that was called by an Emperor or a Civil Authority is not properly defrocked, because
9979 the Council is not proper. (End of Offer of Prooff)

9981 St. John Hrizostom was the Arch-Bishop of Constantinople in the 4th Century who wrote the liturgy which is found today in the Holy Liturgy of the Orthodox Church.

9983 I am of the opinion that he was not defrocked and then restored to his position. He was relieved of the administrative duties as in Article 111 of the Constitution of the Serbian Orthodox Church.

9984 Defendant's Exhibit 258-A is offered and admitted without objection.

9985 *Redirect Examination.*

9986 The Holy Episcopal Synod of the Serbian Orthodox Church under Article 69.21 of the Serbian Orthodox Church Constitution amends that Constitution.

9987 This is the Holy Assembly of Bishops. The Holy Synod is the executive arm of the Holy Assembly of Bishops.

9988 The Holy Episcopal Council appointed the Synod to institute proceedings against Bishop Dionisije.

I testified that the decision of the Holy Assembly as to the defrockment of the Bishop, if unanimous, is final.

9989 The 14th and 15th Canon of the Antiochian Council speaks of this. It is a Canonical Rule that all Bishops must attend the meeting of the Holy Episcopal Council unless the Council has excused them and they have given their reasons for not attending. This is the 72nd Canon of the Carthaganian Council.

9991 I think the 12th Canon of the Carthaganian Council speaks about the minimum number of Bishops that must be present at a Sabor for the defrockment
9992 of a Bishop. There must be 12 Bishops present. By the Constitution of the Serbian Orthodox Church there must be an absolute majority of the Serbian Orthodox Bishops present.

9993 I remember testifying that Bishop Dionisije could not and did not participate in the meeting on March 5, 1964, pursuant to Canonical Regulations.

9994 I think this is Canon 107 of the Carthaganian Council.

(End of Examination Bishop Vasarion, Page 9995) Volume 35.

MILAN BRKICH testified as follows:

Direct Examination.

(Called Again)

10935 In the Spring of 1963 I was a parish priest in Mil-
10936 waukee, Wisconsin, and as such, a member of the Clergy Association of the American and Canadian Diocese. I attended a meeting of that association in Lorain, Ohio, on May 8, 1963. During that meeting I was elected as the presiding officer. A resolution was prepared which is marked PX 86A. Bishop

10937 Dionisije was present at these meetings on both days. A committee was designated to draft the resolution and Father Mijetovich of Detroit was appointed chairman of that resolution committee. After the resolution was discussed by the assembly, Bishop Dionisije signed it, as did I and the other members present. The only change made in the resolution was
10938 the insertion of the word "alleged" concerning the accusations against the Bishop; otherwise the resolution stood as it was drafted. I personally saw the Bishop sign it.

10999 MILAN RADAKOVICH testified as follows:

Direct Examination.

My name is Milan Radakovich and I reside in
11001 Milwaukee, Wisconsin. In 1940 I was treasurer of the American-Canadian Diocese. I had occasion to attend the diocesan meeting in the summer of that year. I received notice of that meeting by letter
11002 from Bishop Dionisije. The meeting was scheduled for July 12, 1940 and the notice arrived ten days previous to that. PX 220 which are the minutes of the July, 1940, diocesan Council meeting reflect my attendance at that meeting. There were about twelve other members present. The meeting began about
11004 11:00 in the morning at 1905 Schiller Street in Chicago in the church hall of Holy Resurrection Church.
11005 I arrived at the meeting before Bishop Dionisije who came about 15 minutes later. Father Firmilian was with him. After the Bishop arrived, he intro-
11006 duced Father Firmilian as the secretary for the meeting. There was no discussion at that meeting as to whether or not Bishop Dionisije would be accepted by that council board. At no time did the

11007 Bishop withdraw from the meeting hall so that the council could vote as to whether or not to accept him.

Cross Examination.

I had not met Bishop Dionisije prior to that meeting in July of 1940. I do not know whether he had met any of the other members of the diocesan council. I do not know the date of the meeting immediate-
11008 ly prior to or the meeting subsequent to the meeting on July 2, 1940. Similarly, I cannot tell you where either of these two meetings were held. Prior to testifying today I reviewed the minutes of the July 2nd meeting. I had however independent recollection of what took place. I have no recollection of what
11009 took place at the meetings of the diocesan council immediately preceding or immediately following the meeting of July 2nd. I cannot recall what occurred at any other council meetings. I have a clear recollection of exactly what happened at the July 2nd 1940 meeting without the benefit of reviewing the minutes of that meeting.

11010 ROBERT TOBIAS testified as follows:

Direct Examination.

My name is Robert Tobias and I reside at 5403 South Lake Shore Drive, Racine, Wisconsin. I am a professor of Ecumenical Theology at the Lutheran School of Theology in Chicago. I prepared and sub-
11011 mitted a dissertation at the time I received my doctorate degree entitled, "Communist-Christian En-
11012 counter in East Europe". This dissertation was published in book form. In 1946, I had just been
11024 called as assistant director of the division of the inter-church aide of the World Council of Churches.

My first assignment was to find out what was going on in communist occupied countries and how we could get various kinds of material assistance to the people of those countries through the churches.

11025 The first occasion of my visit to Yugoslavia was the winter of 1947-48. Between '47 and '64 I have made 30 or more trips to Yugoslavia. I have not traveled to Yugoslavia since 1964. The duration of my visits to Yugoslavia ranged from 3 or 4 days to six weeks. I believe the average would be somewhere between 2 and 3 weeks. My travels took me across the country and there is hardly an area which I have
11026 not visited. In my travels I have had an opportunity to meet the Patriarch German on an informal basis.
11027 I have been a guest in his private villa in Yugoslavia as well as an official guest at the Patriarchate
11029 Subsequent to 1953, I had occasion to work for the division of the inter-church aid. My assignment was with my own denomination, to oversee the spending of its support for churches abroad, and also, I continued on an advisory committee with the division of inter-church aid service to refugees. Therefore, I was traveling two or three times a year into Yugoslavia, Europe, the Middle East and North
11031 Africa. I have published a number of books. On the subject of Eastern Europe, I published Communist, Christian Encounter in East Europe, which is my only major publication of about 550 pages. I have also published numerous articles on the same subject. I have also published a book entitled "Reaches of Unity," another entitled "Breach of Unity," another on "Men, Medicine and Theology", and another manuscript which I have just sent off concerning the future of God and man. I have published at

least 100 articles. During my travels to Yugoslavia,
11033 I had occasion to meet all of the Bishops of that country and, perhaps, 100 to 150 of the clergy. In connection with my travels and in preparation for my books, I have studied the relationship between the church and the state in the Soviet Union and its Satellite Nations. I have also specifically studied the relationship between the church and state in Yugoslavia and the history of the Orthodox Church.
11034 Due to the lack of official documentation, my research primarily consisted of conversations, meetings and the use of private and unpublished documents. Insofar as possible, I have made a study of communism in Eastern Europe as it pertains to the
11035 practice of religion, and in particular in Yugoslavia.
11039 I was able to travel throughout Yugoslavia from 1946 to 1964 only subject to the restrictions of roads, highways, military operations and so forth of the Yugoslavian government. It was my purpose to
11040 discover what the needs of the people of the land were and the needs of the churches. My opinion as
11051 to the effect of the government on the churches is that the churches live under the rule of the government which controls the legal offices of the country: the postal system, the rail system, social security, etc. In those regards, obviously, the church is going to exist within the country and use those facilities. It must do so according to the established regulations which is true in any country. After 1947 the government was in a quite precarious position as some of the clergy had supported the royalist faction, others had collaborated with the Nazi's, and still others were partisans allied to the communist movement which had taken over the government.

11053 In 1947, to avoid partition by England and the Soviet Union, Tito's regime made its break with the Kremlin and this placed still greater difficulty and strains upon the government to insure that would-be subversives would be eliminated from leadership within the country. The government made it its business to find out who among the individuals in the life of the church were going to be involved in subversive groups organized to overthrow the government. The church had always been a powerful force in Yugoslavia and particularly in Serbia. The government made it its business to find out where the leadership of the church stood and, in essence, told the church to keep out the politics.
11054 This does not mean, however, the government was controlling the integrity of the church in terms of the spiritual life or the theology as long as the church would maintain itself as a church willing to work under the laws of the land as established. To that extent the church was free to work. My reference to the church concerned all the churches in Yugoslavia which were in the same situation. Sev-
11055 eral distinctions can be made between the relationship between government and church in the Soviet Union and government and church in Yugoslavia.
11056 In the Soviet Union the official policy established by Lenin as against Engels was that religion was to suppressed. Engels had taken the position that when economic conditions were sufficiently improved religion would simply die out. Lenin's position, however, was that religion must be done away with administratively. That was the policy of Russia right on into the 30's. Tito himself had had some training in Russia and apparently may have learned a lesson

from that experience. He took the position, and it was subsequently applied as a policy, as he put it in a speech in Mostar, that religion is a private affair of the individual and cannot be destroyed administratively. He maintained therefore that the individual must have the right to organize and to practice his religion as he saw fit as long as it was within the keeping of the rules or laws of the country.

11057 During my 30 or more visits from 1947 to 1964, I had occasion to work with the Red Cross in Yugoslavia. The Red Cross Staff helped us pick out what the material and medical needs of the people of Yugoslavia were and at the same time they were sending assistance to the churches for their programs. While I was there, I had occasion to attend church services in Church edifices. Attendance varied somewhat, but in general, the services were well attended.

11058 In some villages I found even large attendance, as though these were very popular. I suppose that in some places this was the place where they could express themselves not only religiously but in other ways. I also attended some major celebrations which, of course, would naturally be well attended. On the whole it was my impression that a very healthy solemn, faithful religious life was being conducted. In 1947 everyone in Yugoslavia was under a great deal of tension and this was noticeable in the religious expression of the day. In '64 the situation

11059 was much more calm. Religious life was open and free in 1964. Concerning changes of governmental policy toward the church life from 1947 until 1964, I would answer the question in two parts. In principal, I see no fundamental differences in position on

the part of the government which, as a matter of fact, was stated by the secretary of the communist party at an official meeting of that party when he was asked whether it wasn't necessary for them to change their position with respect to religion. His

11060 reply was "No, we have a correct position; we have not created martyrs nor have we given to churches liberties which our other institutions do not have. Therefore, our position should stay as it is." On the other hand, it has to be recognized that when the communist leadership came into power in 1944 and 1945 and through '47 and '48, they were very undermanned both in party and government. They had the necessity of staffing not only the government and army but their relief forces, educational institutions, consuls and commerce offices, embassies and United Nations offices. As a consequence, there were many local situations in which untrained communist or government leaders were dealing with churchmen and not used to dealing, first of all, with the tenseness of the situation, nor idealogically, were they prepared to help move their country smoothly

11061 to what the communist government regarded as an ideal society. As a result there was a great deal of crudity, particularly at some local levels, which I don't question, the leaders did not like. I think it must therefore be seen and recognized that there were some instances of brutality due to simple incompetency on the part of the government on how to deal with the leadership of some of the local churches.

11062 The situation over the years between 1947 and into the early 1960's has manifestly improved. For that reason, the tenseness which I described earlier

with regard to the leadership of the church has been eased. There has been time for the church to settle and to find out where it stands in the country and how it may function smoothly. Materially, it is much better off. The number of churches that have been rebuilt is somewhere around four-hundred as I recall. A number of new churches have been built and the clergy have homes and adequate substances. They are now on social security and, while I rather expect that the condition of each individual clergyman may not have improved, in general, the picture has very much improved.

11064 (Offer Of Proof.) At one time in Bulgaria I was convicted of being an American spy and found to be persona non grata. (End Of The Offer Of Proof.)

11173 ROBERT TOBIAS testified as follows:

Direct Examination Continued.

11175 When I was working in Europe, I was headquartered in Geneva, Switzerland, and the director of the World Council of Churches during that period was Dr. W. A. Visser-t Hoost.

11176 The average size of the staff was about 100 and at any one time the largest number of people in Yugoslavia was about 30.

Cross Examination.

11179 I should say concerning my 30 trips that most of them were made prior to 1959 and fewer between 1959 and 1964. On all of these trips I entered Yugoslavia in one capacity or another as a representative of the department of inter-church aid and service to the refugees of the world Council of Churches.

11181 At the Yalta Conference it was agreed by the allies, including the Soviet Union, Britain and America, that they would work with the partisans toward the liberation of the country. The partisans, of course, were headed by Marshall Tito. So at that conference the decision was made not to support the kingdom of Yugoslavia headed by King Peter which was in exile in London, and, in fact, there would be no effort to restore the monarchy. While
11187 it is a generalization, I believe it can often be said that the history of communism has been that, as they take over the government with rather inferior forces numbers wise, the governments are rather shakey in the early stages.

11188 When Tito's government took over, they weren't sure just where the church heirarchy stood with reference to whether they were sympathetic to his group, that is the partisans, or the Nedich group who were the former Nazi Collaborators, or the Mihailovich Group, which were the royalists loyal to King Peter. This was a natural uncertainty and particularly in view of the fact that the Patriarch's office prior to Patriarch Gavrilo had worked with the Nazi forces.

11189 When Tito's government first came in, they separated the church from the state. At the time I started to go into Yugoslavia in 1946, I was aware that there were some priests and Bishops who were in jail or prison pending trial.

11191 I had occasion to meet only two of the Bishops who were during this period in jail. One of them was the Metropolitan of Montanegro by the name of Arsenius and the other was the former Locumtenens Joseph. While the Patriarch was in Dachau.

he acted as Patriarch. He was an outspoken critic and opponent of the communist government and the Partisans represented by Marshall Tito. When the time came for the election to replace Gavrello, Metropolitan Joseph was in house arrest at the monastery at the south side of Belgrade.

DX 278 refreshes my memory to the fact that Metropolitan Arsenius, at the age of 71 years of age, was arrested in July of 1954. Shortly after his arrest in July of '54, he was tried by the communist government and was sentenced to 11 years and six months of hard labor. I had met him prior to that in connection with the work of the Holy Synod. At the time of his arrest and conviction, he was vice-president of the Holy Synod. Concerning the circumstances and reasons for his arrest, I recall that it was generally known that he had been involved with some Monarchists who were concerned with the restoration of the Monarchy in Yugoslavia. He had been working with some people in attempting to achieve that end. This would be in opposition to the government of Marshall Tito as the Monarchy could be restored only by putting out the government in power.

Without checking my records, I have no recollection in the period between 1946 and Patriarch German's election in 1958 of any other Bishops who were arrested or placed under house arrest, or placed in prison by the communist government. I had the opportunity to meet Bishop Irinej of Bachka. I knew that sometime during this period of time he was supposedly beaten so badly that he went out of his mind and was never able to serve after this beating. I visited him after this so called beating

and have spoken with him. He was a very elderly man and whether the senility which came was due to old age or due to the beating of some rough hands was a medical decision. I had a chance to come in contact with Metropolitan Nektarije, but do not recall that he was beaten in 1953. As I have indicated previously, there were situations in which local groups let things get out of hand and became crude in their dealings, not only with religious leaders, but with others as well. I am not necessarily referring to the local party officials of the communist party, although in some cases members may have been involved. To my knowledge, a priest did not have to be a member of the newly organized priest association to receive social security. The new priests association did receive financial support from the government as did the church and the Red Cross and many institutions concerned with the welfare of the people.

The first president of the Priests-association was Prota Vidakovich who was a Partisan. He held an office in Tito's government under the title of President of the Presidum of the Presidents of the Republic. He was one time the President of the Republic of Serbia or the Vice-President. He was also minister of agriculture in the Republic of Serbia at one time. He was not a member of the party, but was part of the government and held offices as high minister in that government as well as being president of the Priests Association.

The policies and the programs of a communist country are determined through the party. Disagreement with the party often is treated severely, as in the case of Mr. Djilas, who himself was a very

high officer in the communist party, but took exception to some of its developments. Eventually, he was put under house arrest because of his disagreement. The form of this disagreement and the implications of it were such that it was a real threat to the basic policies determined by the party. He wouldn't shut up so they put him under house arrest.

11211 Prior to 1947, Yugoslavia was under the leadership of the communist party which had close ties to the Kremlin. The Soviet Union was, in fact, directing much of its economic development. The interpretation within the government of Yugoslavia was that they were being economically disabled and it was going to be necessary either to become completely a satellite or else to make a completely clean break
11212 with the Soviet Union. The decision was finally made that the break was necessary. A fourth pressure group in the country then was the Pro-Stalin group. The emergence of this group resulted in a new uncertainty and fear on the part of the government concerning its strength in relation to the whole populous.

11213 Now the government was not sure whether any priests were involved in this new group created by the schism with the Soviet Union. I am not aware of any program which was launched by the government at the church, as such, concerning these four groups. The government's position was simply to try to know where there was a threat of subversive activity from any of these three or four positions, and simply to prevent that from coming to a head and undermining the government to the point of its falling.

11214 There were some groups who were allowed continued freedom because the government did not consider them a threat. What the government was seeking,

of course, was insurance that the administration and hierarchy of the church would not use it to overthrow the government. In its agrarian reform, the government took over most, but not quite all, of the lands of the church as part of the program of economic development. The productivity of the nation was organized as one total productive economy and the church lands were to be included.

11215 Concerning takeovers of churches, you have to remember that about 1,000 churches were actually destroyed during the war and there were a few instances where churches or chapels were of general interest to the whole populous as national shrines and the government took over the upkeep and the support of those shrines. These have been run as government museums rather than the property of the church.

11216 After the war, the lay population had not developed the practice, which we have here, of supporting their own priests. Therefore, there was a period of time when the new government provided subsidies to help the church get on its own feet. There was
11218 not a tangible agreement between the church and the state that in exchange for the churches abstention from politics, the state would provide subsidies. It is reasonable to assume that a government will not provide subsidies for its own overthrow, and I think that's also true in this case.

11219 Concerning the cases of Metropolitan Arsenius and Metropolitan Joseph and Bishop Varnava, it
11220 is my opinion that these men were prosecuted, not at all because of their religious activities, but because of their involvement in certain political activities.

11226 Concerning statements released by Bishop Dionisije, I have several opinions as to whether or not this

would precipitate any action by the government through the Serbian Orthodox Hierarchy in Yugoslavia.

11228 My opinion is that in view of the fact that this document begins with some facts but develops them to a great extent inaccurately, the government would be concerned to have the facts made known to discredit the tendentious conclusions made here. The
11229 second half of my answer is that I doubt that they would try to do that with any kind of formal pressure on the church. I am not aware that Marshall Tito denounced Bishop Dionisije personally nor that Patriarch Vikentije and Patriarch German attempted to bring pressure to bear on Bishop Dionisije not to mix into the political situation in Yugoslavia. However, I would not find it surprising.

11233 The government makes the decision as to whether or not political activity carried on by the church is impermissible and tends to undermine the government.

11236 I characterized Bishop Dionisije's press release of August 6, 1964, as tendentious because the document begins with certain events and facts which could be established in history and develops from that by inuendo, a number of conclusions that are not really substantiated. I have not read nor am I
11239 familiar with the book entitled "Yugoslavia and the New Communism" by Hawkman and Neil.
11242 This book contains the following statement: "Importance is attached to the clerical association because they enable the government to get its ideas across to the clergy and indicate a degree of acceptance of the regime on the part of the churches. Priests benefit through social insurance only if they

are members of the clerical association. The Orthodox Church and the Supreme Vacuf Assembly, the ruling body of the Moslem community, permit their clergy to join similar associations." In the first
11245 sentence the statement, "Importance is attached" I presume that importance is attached by the authors of that book. I cannot quarrel with their reasoning, however, I would attach importance for different reasons than they do. On the second sentence in which they allege that benefits are available to the Orthodox clergy or to the clergy only if they belong to the association, this is not true to my understanding. There are priests who are not members of the clergy who have social security by virtue of being citizens of the country. Concerning the third sentence that Moslem and the Orthodox permit the clergy to become members of such organizations, insofar as the church is not prohibited their clergy from becoming members, I take it that means that they may become members. Without qualification I cannot agree completely to this further statement, "While the regime does not directly interfere with internal administration in any of these churches, it does not hesitate to do so indirectly when political considerations are involved. A good example is the manner in which the Holy Synod of the Serbian
11246 Orthodox Church was pressured into accepting Macedonian demands for an autocephalous church in that republic in 1958."

11250 There is a footnote to this statement, "Macedonian Bishops were elected along with the Metropolitan of their choosing, although nominally the church continued as part of the Serbian Church under the Serbian Patriarch. The ancient See of Ochrid was reactivated as the archbishopric of Skoplje and

Ochrid." Concerning these two statements Macedonia reaches into three countries; Bulgaria, Greece and Yugoslavia and is of political interest to all three who try to control the Macedonians. Perhaps the largest part of Macedonia is in Yugoslavia, in terms of numbers of people, and geographic area, fertility of soil and production. This is a point where national and ecclesiastical interests have come into conflict within Yugoslavia.

11251 It is to the interest of the Nation that the Macedonians should, if possible, find their full freedom and self expression within the republics or as a republic of Yugoslavia. On the other hand, ecclesiastically, the Macedonians are a part of three autocephalous churches, Greek, Bulgarian and Serbian, and it is against cannonical order for the Serbian Church to authorize the creation of an autocephalous church in one part of Macedonia. The Holy Assembly has therefore refused to grant that autocephalad which is where that statement is wrong. It has, however, granted autonomony which allows the parishes within the diocese within Macedonia under a Metropolitan or Arch-Bishop to function with a large measure of independence. The church at this point has maintained its canonical integrity, but has been in conflict at that point with the national interests of the government, and it is a point of conflict which I presume is still in negotiation and will continue to be so for years to come. It is one of the instances of a conflict of ecclesiastical and national interest. By
11252 national interests, I mean that of the government.

11253 Autonomy is what was granted which provides a large measure of self-government and independence. Autocephaly would mean that they had their own

patriarch and it is not the right of the Serbian Patriarch or Holy Assembly to grant this.

11254 I disagree with the statement that the communist regime, in order to exercise full control over the activities of the church, created the Commission for Religious Affairs and Priests Association through which the regime is kept informed of all developments and events which occur in a church.

11255 I would disagree with the statement, "In communist Yugoslavia the state is free from any church influence, but the church is not free from priests as-
11256 sociations both on the federal and republican (state)
11258 level." I would agree that when a priest is involved in activites subversive to the government and the government persecutes him and puts him in prison and penalizes him in other ways, this could be described as the infliction of suffering, both mental and physical, upon Serbian Orthodox priests. I would
11259 not agree that this is meted out as part of a conquest or an infiltration of the church. I disagree
11260 with the state that 90% of the clergy were persecuted by the regime.

11263 At the time Patriarch German was elected, to my knowledge, the party or the government neither supported or opposed his election. The Yugoslavian Red Cross, for whom I worked, is part of the International Red Cross and is under the control of the government while not quite an official agency. It has a kind of private sponsorship and some form of Board of Directors.

11265 *Redirect Examination.*

In my book "Communist-Christian Encounter in the East" there is no chapter on Yugoslavia. That book deals with my research work and relationships

in satellite countries of the Soviet Union and the Soviet Union. The Yugoslavia situation is very different from those. It is therefore excluded from that book and I delt with it in other documentation.

11266 The Serbian Orthodox Church and the World Council of Churches are associated in several levels. Patriarch German is one of the presidents of the World Council of Churches. Serbian church members participate in various commissions of the World Council. It is now fully a member of the World Council. The Serbian Church did not send delegates to the 1954 meeting for World Council because it was not, at the time, a member. Concerning the

11270 churches which were taken over by the government and used as shrines, I believe they numbered between 8 and 10. All of these shrines are still used as churches, so far as I know, with one exception.

11336 FIRMILIAN OCOKOLJICH testified as follows:

Direct Examination in Rebuttal.

I came to this country in 1940 with Bishop Dionisije and was invited by the Bishop to help in the Diocese as secretary. I recall the first diocesan council meeting attended by Bishop Dionisije and I accom-

11337 panied him as secretary of the diocese there. The meeting was held in Chicago at 1905 West Schiller Street in the Holy Resurrection Church. I recall

11338 taking minutes during that meeting in the Serbian language directly into the book. At the end of the

11339 meeting I signed my name as did Bishop Dionisije. It was at my direction that the minutes from my original handwriting, PX 220 were translated but I do not recall if I did it myself. I compared the translation with the original and it is a true and

11340 correct translation of the original minutes. I recall what occurred when we arrived at the meeting. At that time the diocesan office and Bishop's residence was in Chicago on Dearborn Street and I believe we took a taxi and came to 1905 West Schiller arriving there at about 10 o'clock and the members who are registered here in the minutes were already present. We introduced each other, and then after ten or fifteen minutes of talking, Bishop Dionisije opened the meeting and I took my place next to him to take notes. I recall that Voadimir Lugonja, a witness who appeared here was at that meeting. He

11341 was there prior to the opening of the meeting as was Milan Radakovich. I met Mr. Lugonja in New York when he was helping us because none of us spoke English in those days. There was no discussion prior to the opening of this first meeting of the diocesan council attended by Bishop Dionisije pertaining to the acceptance of the Bishop by that board. There was no vote taken by any of the members of that diocesan council as to whether or not they would accept Bishop Dionisije. I recall being

11342 in attendance at the clergy association meeting of May 8 and 9, in Lorain, Ohio. I was a member of the clergy association at that time holding the rank of Archimandrite and parish priest in Pittsburg. A resolution was drafted at that meeting which is PX 86. Bishop Dionisije was present during those two days. My name appears on page three

11343 of this document in the right hand column, third from the bottom. I saw Bishop Dionisije sign this document in its present form after it had been completed and adopted. His name appears on top of the right hand column.

Cross Examination.

11344 This meeting was the first diocesan council meeting after our arrival from Yugoslavia. At that meeting Bishop Dionisije did not present his credentials to the council or his decree appointing him as Bishop of the American-Canadian Diocese from King Peter's regent. Some of the gentlemen who attended
11345 that meeting traveled quite a distance to get there and some of those men did not have an opporunity to meet any of the people who had come from Yugoslavia before that meeting in July of 1940. Mr.
11346 Lugonja had been in New York to assist us through
11348 customs. I had met a few of the other members also.

IRINEJ KOVACEVICH called as a witness in rebuttal on behalf of the Defendant.

Direct Examination.

My name is Bishop Irinej and I have testified
11481 previously in this case. I have before me and have examined PX #16 being the indictment in this case. I speak and write the Serbian language and the English language. At Mr. Holmquist's request I took PX 16A, being the Serbian of the indictment, and PX #16 being the English translation and examined the two documents for the purpose of checking the accuracy of the English translation from the Ser-
11491 bian. I have had an opportunity to review PX #16 and PX #16A and it is my opinion that the English translation of 16A is a substantially correct literal translation. What I mean by this is that the English sentences the construction of the English sentences are really exactly as the Serbian sentences were constructed and simply translated as it happened to be in Serbian. It does not sound as the best English as it stands, but the meaning is there. It is a
11492 complete literal translation word for word. In the
11495 course of going through the document, I found incidents where names of persons were omitted but not incidents of incorrect references to different people. I found four incidents in total where this
11497 had occurred. In the cases where names were omitted I found that it did not alter the meaning of an entire paragraph. However, I found in one that something was said by Glisho Rapaich to Jovan Duetchich and the paragraph had the speaker and the listener reversed. (End of the offer of proof.)

BISHOP DIONISIJE testified as follows:

Direct Examination.

11499 I was in Court when the Evidence Deposition of Reverend Petakovich was read. I recall that there was a meeting of the Diocesan Executive Board in Chicago on or about April 19, 1962. Reverend Petakovich was a substitute or alternate member. There
11500 was a discussion at that time about my going to
11501 Belgrade. DX 289a and 289, the English translation,
11506 are the minutes of that meeting. At the time of the discussion concerning my going to Belgrade, Father Petakovich was not there. There was a resolution passed concerning whether I should go. The board
11507 resolved that I should not go. Father Petakovich did not participate in that conversation or resolution because he was not present. He came to the
11508 meeting later. (DX 289 and 289a are admitted)
11509 After I got word that the Damaskin Delegation was coming, I prepared a notice recommending that we receive them nicely and brotherly. DX 288a and
11510 288, the English translation, is the document which

I prepared and sent out on or about August 18, 1962.
11511 In August, 1962, in San Francisco, I did not have a conversation with Father Petakovich in which I advised him not to invite the Damaskin Delegation to Gary, Indiana. I did not have any conversation with him in San Francisco or any other place. His
11512 Church Congregation Committee made arrangements for the delegation to come to Gary on November 26,
11514 1962. (DX 288 and 288a are admitted in evidence.)
11515 The Damaskin Delegation was in Gary on November 25. I don't recall whether Father Petakovich brought Metropolitan Damaskin and Bishop Nikanor to the Monastery after their visit to Gary. I did
11516 not make any statement to Metropolitan Damaskin that I would separate this diocese from the Mother Church if they tried to have charges againts me.
11517 (DX 218b is received in evidence.)
11518 I recall the testimony of Father Trbuhovich concerning a priest by the name of Petakovich in Pittsburg. Father Petakovich wrote me a letter that he would be married, and DX 266a dated July 27, 1942, is that letter. The signature is that of Nicholai
11519 Petakovics. DX 266 is a true and correct English translation. After I got that letter I responded and DX 268a dated August 1, 1942, is my letter to him. I said that I would suspend him from duty if
11520 I heard about it. After August 1, 1942, a priest made an accusation that he had been married and sent a marriage license to me. DX 267a is a certified copy
11521 of the marriage certificate showing that he married Zora Strain on or about August 14, 1942. I placed this priest on forbidance. DX 269a and 269 the
11522 translation, is a true and correct copy of my decision suspending him. DX 270a is the letter addressed

11523 to the Church Congregation notifying them of the
11524 suspension. DX 270 is the English translation. Certain persons and organizations intervened on behalf of this priest. I obtained knowledge of this
11533 priest's marriage a month after he had gotten mar-
11534 ried. DX 271a is the letter which I received from the Serbian National Federation dated March 26,
11535 1943. DX 271 is the English translation. DX 272a is a letter from Dusan Silaski. I recall the testi-
11549 mony of Momchilo Djuich. I did not have a conversation with him from the year 1952 to the present time concerning Reverend Kresojevich. During the
11550 years of 1962 and 1963 I made visits to Shadeland. I had two priests over there, Paul Poznanov and
11551 Simeon Grozdanovich. These priests resided at
11552 Shadeland during 1962 and 1963. The two priests
11556 maintained the receipt books and received the money, issuing the receipts. I do not think these two priests bear allegiance to me at this time. One is in St.
11557 Louis and the other one is in Cleveland. Bishop
11559 Firmilian knows. DX 259a is a letter addressed to Father Djurich at St. Paul on July 2, 1958. DX
11561 259 is a correct English translation. DX 260 is a letter dated June 26, 1958 from me to the board of the church in St. Paul. DX 260 is a true and correct English translation.

11567 Before I came to the United States in 1940 I was not a member of the Association of University Educated Theologians. I have not been a member of that organization, assuming there is such an organization, since I came to the United States. I have never been a member of an organization purporting to be the Association of Universtiy Educated Theologians in the United States. The book known as the

"Rudder" is a composition of the Holy Canons beginning with the apostle times to the Ninth Century, including the Seven Ecumenical Councils and the Local Councils and decisions of the Holy Fathers. In the book there is an interpretation given following the Canon. Interpretations were made in the Eleventh, Twelfth, and Thirteenth Century by several famous interpreters. Later they were recognized as the authentic interpreters of the Holy Canons. The three interpreters are [illegible]ara, Valsamon, and Iristinus. This book was published under the authority of the Patriarch of Constantinople in 1800. The Serbian Orthodox Church has never published any interpretations of the Canons. The Serbian Orthodox Church accepts the interpretation of the Canons as set forth in the "Rudder."

I recall testifying that a Metropolitan Paul of the Serbian Orthodox Church had been defrocked. DX 290a is an excerpt from a book entitled "Peoples Encyclopedia of Serbs, Croats and Slovenes" and I am familiar with it. It is a recognized encyclopedia printed in 1928 by the famous professor of history, Stanojevich. I brought this particular encyclopedia in 1940. I was familiar with it while I was in Yugoslavia prior to 1940. This encyclopedia was in use in Yugoslavia at that time. This particular encyclopedia was kept in the library of the Theological University in Belgrade. It is a recognized authority as to the history of the Slavs, Croats and Serbs. This professor of history was entrusted by the Holy Bishop's Assembly to write the life of St. Sava in 1935. When I attended the Theological Faculty this man was a professor of history at the University of Belgrade. DX 290 is a correct English translation

of this section wherein there is a reference made to Metropolitan Paul. DX 291a is another excerpt from the same encyclopedia and it refers to Metropolitan Michael. DX 291 is a true and correct English translation.

DX 292a is an excerpt from the text entitled "Serbian Literary Organization Circles, Lives of Serbian Kings and Archibishops". This was published in 1935. The author is Archbishop Danilo II, who lived at the end of the 13th Century. Up until the time that I left Belgrade in 1940 it was a recognized authority on its subject matter. It was used as a historical text when I was a student at the Theological Seminary. I have the original book here. DX 292 is a true and correct English translation of page 208, dealing with Archibishop Danilo I.

DX 293 is an excerpt from the Encyclopedia Brittanica, Volume V, page 666 dealing with St. John Chrysostom. This is the same St. John Chrysostom that I made reference to in my previous testimony. (The Court states that he would take judicial knowledge of this work) DX 294 is another excerpt from the Encyclopedia Brittanica dealing with Athanasius. (The Court states that it is refusing to accept the documents as exhibits and suggests that if they are desired to be used by counsel for the defense, that they be used as reference points in briefs and argument.)

Cross Examination.

Danilo I, which is in the book as a bishop and the book shows that he was deprived of duty and defrocked.

The "Rudder" has never been translated into the Serbian language. Bishop Milash's work is a private work never recognized by our church. It is in the Serbian language. I did not have full personal control of the Shadeland properties in February of 1962. I never saw PX 269a, a copy of "Christian Thought" a periodical published by the Association of Theologians in Yugoslavia congratulating me on my election as Vicar Bishop, before today. (DX 257 received in evidence.)

OWEN C. NEFF testified as follows:

Direct Examination.

My name is Owen C. Neff and I reside at 175 Sterncrest Road, Morland Hills, Ohio. I am an attorney at law and am admitted to practice before the Supreme Court of Ohio. I was graduated from Ohio Wesleyan University and received my law degree from the University of Michigan Law School. I currently am a member of the firm of Sneider, Neff and Chamberlin. I am an active member of the Cleveland Bar Association and held a number of different positions. In 1952, I was practicing law in Cleveland, Ohio and was an associate counsel of records of Plaintiff in the case of the Romanian Orthodox Missionary Episcopate of America vs. Ione Trutza et al. No. 27-916. The actual Plaintiff in this case was Bishop Andre Moldezan. The case was appealed to the United States Court of Appeals for the Sixth Circuit in Cincinnati. I was the counsel of record and participated in writing the brief and was present during the argument. I had occasion to purchase a trial transcript from one Arne Jarvela.

This transcript is marked Plaintiff's Exhibit 217D and I recognize it. I first saw this document on October 17, 1952, when Mr. Jarvela delivered it to me in exchange for a check in the amount of $342.00 made out to Mr. John Vintilla. At that time, Mr. Jarvela stamped the bill as paid placed the date on it, signed his name with his initials and gave the receipt to me. I was present during all sessions of the Trutza case. I was present when the Right Rev. Dionisije Milivojevich testified. I recognize this gentleman in the court room; it is Bishop Dionisije. I have seen Plaintiff's Exhibit 217E before. It is an office copy of the record of the transcript of testimony which was filed in the United States Court of Appeals for the Sixth Circuit. I have compared pages 110 through 126 of Plaintiff's Exhibit 21E with Plaintiff's Exhibit 217 and they are the same. I cannot of course recall independently all of the testimony which Bishop Dionisije gave but this testimony which is reflected in Plaintiff's Exhibit 217E and the Plaintiff's Exhibit 217 is, substantially and in essence, the testimony which he was called upon to give and which he did give. It was our side of the case which called the Right Rev. Dionisije Milivojevich to testify as an expert witness.

Cross Examination.

The trial lasted five to seven days. We did not win this case.

Supreme Court, U. S.
FILED
DEC 11 1975
MICHAEL RODAK, JR., CLERK

APPENDIX

In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-292

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA,
a Religious Body, et al.,

Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,

Respondents.

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Exhibits

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

Petition for Writ of Certiorari
Filed August 26, 1975
Certiorari Granted October 20, 1975

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In the
Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-292

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA,
a Religious Body, et al.,

Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

EXHIBITS*

*Most of the exhibits herein are translations of documents originally written in the Old Church Slavonic language, with the Cyrillic alphabet. These translations contain numerous errors in English spelling, capitalization, punctuation, and grammar. To make these exhibits more legible to the reviewing court, both Petitioners and Respondents, in printing the exhibits, have found it desirable to correct some of the translators' errors without indicating the corrections.

PLAINTIFF'S EXHIBITS

PLAINTIFF'S EXHIBIT 1

TRANSLATION
EXCERPT

From the Minutes of the meeting of the Holy Synod of Bishops for 1963.

In these Minutes it is recorded that a meeting of the Holy Synod of Bishops was held on May 10th, 1963 in the Patriarcal palace in Belgrade.

On pages 119 and 120 of these Minutes the following is also recorded:

"Minutes No. 188

Synodal No. 1664

The Holy Assembly of Bishops by its decision Holy Assembly No. 20 and 21, of May 10th, 1963, submits the subject of accusations against His Grace Bishop Dionisije with the recommendation, that proceedings be initiated against His Grace in accordance with article 219 and 220 of the Constitution of the Serbian Orthodox Church and article 67 and 90 of the Rules and Regulations (Proceedures) for Ecclesiastical Courts of the Serbian Orthodox Church (Penal Code).

Upon review the Holy Synod of Bishops decides:

In compliance with the recomendation of the Holy Assembly of Bishops Holy Assembly No. 20 and 21 of May 10th, 1963, the Holy Synod on the basis of articels 67 and 90 of the Rules and Proceedures for Ecclesiastical Courts of the Serbain Orthodox Church orders the initiation of proceedures against His Grace Bishop Dionisije, and on the basis of articles 219 and 220 of the Constitution of the Serbian Orthodox Church suspends him from sacerdotal functions, with a lessening of his salary to one half, and relieves him

from governing the Diocese, until the charges against him are finally investigted and adjudged.

Archimandrite Firmilian Ocokoljich, the episcopal deputy to Bishop Dionisije and pastor in Pittsburgh is appointed as Administrator of the American-Canadian Diocese.

In the same Minutes on page 120 it can be seen that the foregoing cited decision, after reading, was personally signed by:

The President of the Holy Synod of Bishops the Serbian Patriarch Gherman

Members: Metropolitan of Zagreb DAMASKIN
Bishop of Shumadija VALERIJAN
Bishop of Branichevo HRIZOSTOM
Bishop of Zahum-Hercegovina VLADISLAV

That this excerpt from the indicated minutes is faithful to its original is certified and attested unto by

Supreme Secretary
Holy Synod of Bishops
Mladen Mladenovich (signature)
(SEAL)

November 9, 1968
Belgrade
The Patriarchate

PLAINTIFF'S EXHIBIT 2
TRANSLATION
EXCERPT

From the Minutes of the meeting of the Holy Assembly of Bishops for 1963.

In these Minutes it is recorded that a meeting of the Holy Assembly of Bishops was held on May 10th (April 27) 1963 in the Patriarchal palace in Belgrade.

In the Minutes on pages 107 and 108, among other things, this also is recorded:

"Then His Holiness the Patriarch moved that the second part of the same subject be dealt with: The Accusations against His Grace Bishop Dionisije.

In behalf of the Legislative committee His Grace Bishop Hrizostom of Branichevo reported.

After the report, the Holy Assembly of Bishops unanimously renders the following decision:

The subject of accusations against His Grace the Bishop of America-Canada Dionisije be forwarded to the Holy Synod of Bishops with the recommendation that it act in accordance with Articles 67 and 90 of the Rules and Proceedures for Ecclesiastical Courts of the Serbian Orthodox Church."

In the same Minutes on pages 108 and 109 it is recorded that this decision upon being read was personally signed by:

President of the Holy Assembly of Bishops the Serbian Patriarch GHERMAN

Members:
Metropolitan of Zegreb DAMASKIN
Metropolitan of Dabro-Bosnia NEKTARIJE
Metropolitan of Crna Gora-Primorje DANILO
Bisohp of Timok EMILIAN
BISHOP of NIS JOVAN
Bishop of Shumadija VALERIJAN
Bishop of Srem MAKARIJE
Bishop of Backa NIKANOR
Bishop of Zhica VASILIJE
Bishop of Branichevo HRIZOSTOM
Bishop of Banat VISARION
Bishop of Slavonia EMILIJAN
Bishop of Zvornik-Tuzla LONGIN
Bishop of Gornji Karlovac SIMEON
Bishop of Zahum-Hercegovina VLADISLAV
Bishop of Ras-Prizren PAVLE
Bishop of Banjaluka ANDREJ
Bishop of Dalmatia STEFAN
Bishop of Sabac-Valjevo JOVAN

That is excerpt from the indicated Minutes is faithful to its original is certified and attested unto by

November 9th, 1968 Supreme Secretary
Belgrade Mladen Mladenovich (signature)
The Patriarchate (SEAL)

PLAINTIFF'S EXHIBIT 2B

TRANSLATION—CORRECTION

The following is a correction of an inadvertent ommission of a sentence which appears in the original Serbian text of document identified as PLAINTIFF'S EXHIBIT 2a FOR IDENTIFICATION.

The corrected translated text of the seventh paragraph, indented, should read: (in Plaintiff's Exhibit 2)

> The subject of accusations against His Grace the Bishop of America-Canada Dionisije be forwarded to the Holy Synod of Bishops with the recommendation that it act in accordance with Art. 219 and 220 of the Constitution of the Serbian Orthodox Church, and Art. 67 and 90 of the Rules and Proceedures for Ecclesiastical Courts of the Serbian Orthodox Church.
>
> */s/ Very Rev. Velimir P. Kovacevich*
> Very Rev. Velimir P. Kovacevich
> 9815 Commercial Ave., Chicago, Ill.

PLAINTIFF'S EXHIBIT 3

The Holy Episcopal Synod
of the
Serbian Orthodox Church
No. 1664/zap. 188
May 10, 1963
Belgrade

To the Very Reverend
Dr. Firmilian Ocokoljich, Administrator
of the Mid-Western American Diocese
Pittsburgh

The Holy Episcopal Synod, under the above number and date, informed His Grace Bishop Dionisije of the following:

"Your Grace,

The Holy Episcopal Council in its meeting of May 10, 1963, examined the subject of the charges submitted against Your Grace, and concerning the same, under AS No. 20 and 21/zap.77 of 1963, brought this decision:

"The subject of charges against His Grace The Bishop of America and Canada, Dionisije, is to be submitted to the Holy Episcopal Synod with the recommendation that it take action in accordance with Article 219 and 220, Constitution of the Serbian Orthodox Church, and Section 67 and 90, Code and Regulations for Ecclesiastical Courts of the Serbian Orthodox Church (Penal Code)."

"Relative to this the Holy Episcopal Synod in its meeting under the above number and date, brought this decision:

"Executing the recommendation of the Holy Episcopal Council AS No. 20 and 21 of May 10, 1963, the Holy Episcopal Synod on the basis of Section 67 and 90 and Regulations for the Ecclesiastical Courts of the Serbian Orthodox Church, orders the commencement of arraignment

proceedings against His Grace Bishop Dionisije and in accord with Article 219 and 220 Constitution of the Serbian Orthodox Church suspends him from priestly functions, decreases his remuneration to one half and relieves him from diocesan government till his guilt is conclusively investigated and judged."

We respectfully inform Your Grace of the above and request that you take appropriate steps to relinquish the government of the diocese in your charge to the appointed administrator, the Very Reverend Archimandrite Dr. Firmilian Ocokoljich, your Episcopal Deputy and pastor of the Serbian Orthodox Church in Pittsburgh till your guilt is conclusively investigated and judged."

The above is sent to you for your information.

For the President of the
Holy Episcopal Synod
Member, Bishop of Timok
(Signed) EMILIJAN

EXHIBIT A
PLAINTIFF'S EXHIBIT 3D

Holy Synod of Bishops of
the Serbian Orthodox Church
No. 1664/minutes 188
May 10, 1963
In Belgrade
Sin No. 1664/min.
188 May 10, 1963

YOUR GRACE,

Holy Assembly of Bishops at their session of May 10, 1963, has considered the matter of the charges submitted against your Grace, and in regard to those under AS No. 20 and 21/min 77 from 1963 has brought this decision:

"The matter of the charges against His Grace American and Canadian Bishop Sir Dionisy to be forward to the Holy Synod of Bishops with a recommendation to follow up according to the Articles 219 and 220 of the Constitution of the Serbian Orthodox Church and of the Articles 67 and 90 of the regulations and procedures for the church courts of the Serbian Orthodox Church (the penal regulations)".

In connection with that Holy Synod of Bishops at its session under the above reference number and date has brought the following decision:

"In the execution of the recommendation of the Holy Assembly of Bishops AS No. 20 and 21 of May 10, 1963, Holy Synod of Bishops upon the ground of Articles 67 and 90 of the regulations and procedures for the church courts of the Serbian Orthodox Church, orders the initiation of procedure against His Grace Bishop Dionisy and upon the ground of Articles 219 and 220 of the Constitution of the Serbian Orthodox Church removes him from the sacramental officiation with the reduction to one-half of his remuneration and removes him from the administration of the dioceses till his guilt be finally investigated and adjudged."

In regard to the above it is our honor to inform Your Grace with a petition for your knowledge and your direction, so that the duty of the administration of the diocese entrusted to you you should hand over to the appointed administrator the Venerable Archamandrite Doctor Firmilian Ocokoljich, your Episcopal Deputy and Pastor of the Serbian Orthodox Church in Pittsburgh till your guilt is finally investigated and adjudged. Your Grace's Brother in Christ,

For the President
of the Holy Synod of Bishops
Member, Bishop of TIMOK
(SEAL) Emilian

1. To His Grace the Bishop
   of Midwestern American Diocese
2. Sir Dionisy
3. Libertyville

PLAINTIFF'S EXHIBIT 4
TRANSLATION
EXCERPT

from the Minutes of the meeting of the Holy Assembly of Bishops for 1963.

In these Minutes it is recorded that a meeting of the Holy Assembly of Bishops was held on May 10th (April 27) 1963 in the Patriarchal palace in Belgrade.

In the Minutes on pages 104 and 105 under Holy Assembly No. 20 and 21/77 it is recorded that the Holy Assembly of Bishops on that day reviewed the report of the delegation concerning its visit to the American-Canadian Diocese, and among other things this also is recorded:

"After hearing the report of His Eminence Metropolitan of Zagreb Damaskin and His Grace Bishop Nikanor of Bachka of January 24th of this year, concerning the official visit which they made as representatives of the Holy Assembly of Bishops and Synod to the Serbian Orthodox Diocese of America and Canada during the period from September 13th to November 28th, 1962, as also the report of His Grace Bishop Dionisije of America-Canada, no. 164 of the 5th of January of this year on the same subject, and after studying all attached exhibtis which relate to the status of the American-Canadian Diocese and to the case of His Grace Bishop Dionisije of America-Canada, the Holy Assembly of Bishops decides:

On the request of the Church National Assembly of the American-Canadian Diocese and the American-Canadian Bishop No. 115 of the 13th of February, 1962, and No. 127 of May 25th, 1962, that due to the magnitude and expanse of this Diocese it is necessary to elect more bishops for this ecclesistical jurisdiction, the Holy Assembly of Bishops, on the basis of article 16 of the Constitution of the Serbian Orthodox

Church, establishes from the heretofore territory of the American-Canadian Diocese three dioceses, namely:

1. *The Middle Western American* Diocese, with its See in the Monastery of St. Sava in Libertyville, which His Grace Bishop Dionisije retain further,
2. *Western-American Diocese,* with its See in Los Angeles, and
3. *Middle Eastern American-Canadian Diocese,* with its See in Detroit.

Upon priorly obtained agreement of His Holiness the Serbian Patriarch Gherman, South Africa is added to the territory of the Middle Western American Diocese, while to the *Western-American* diocese are added the parishes in Central and South America, which were previously in accordance with article 55, point 12 of the Constitution of the Serbian Orthodox Church under the direct jurisdiction of His Holiness the Patriarch.

The boundary between the Middle-western American and Western-American dioceses will run along the 95th Meridian for the present.

The parishes in the states of Michigan, New York, Pennsylvania and Canada shall belong to the Middle-Eastern American-Canadian Diocese.

As soon as Bishops are appointed for the newly established dioceses, all other necessary diocesan bodies and organs shall be organized.

The final boundaries of the newly-established dioceses however, and the revision of the existing Church Constitution for this territory in conformity with the newly created situation and all other questions relative to the ecclesiastical organization of these dioceses shall be studied by the Church National Assembly with the Bishops in charge, and their motions submitted for final decision to the Holy Assembly of Bishops."

From the Minutes it is further seen (on pages 108 and 109) that this decision, upon being read, was personally signed by:

President of the Holy Assembly of Bisops the Serbian Patriarch GHERMAN

Members:

Metropolitan of Zagreb DAMASKIN
Metropolitan of Dabro-Bosnia NEKTARIJE
Metropolitan of Crna Gora-Primorje DANILO
Bishop of Timok EMILIJAN
Bishop of Nis JOVAN
Bishop of Shumadija VALERIJAN
Bishop of Srem MAKARIJE
Bishop of Bachka NIKANOR
Bishop of Zhica VASILIJE
Bishop of Branichevo HRIZOSTOM
Bishop of Banat VISARION
Bishop of Slavonija EMILIJAN
Bishop of Zvornicko-Tuzla LONGIN
Bishop of Gornji Karlovac SIMEON
Bishop of Zahum-Hercegovina VLADISLAV
Bishop of Ras-Prizren PAVLE
Bishop of Banja Luka ANDREJ
Bishop of Dalmatia STEFAN
Bishop of Sabac-Valjevo JOVAN

This this excerpt from the indicated Minutes is faithful to its original, is certified and attested unto by

November 9th 1968 — Supreme Secretary
Belgrade — Holy Synod of Bishops
The Patriarchate — Mladen Mladenovich (signature)
(SEAL)

PLAINTIFF'S EXHIBIT 4C
SERBIAN ORTHODOX DIOCESE
for the United States and Canada
Serbian Monastery of St. Sava
Libertyville, Ill.

February 13, 1962
No. 115

YOUR HOLINESS
DEAR BROTHERS IN CHRIST-BISHOPS
MEMBERS OF THE HOLY SYNOD
ASKING FOR YOUR BLESSING:

In connection with the letter of the Holy Bishop's Synod, No. 2676/Min.503 of September 13, 1961, we report:

It is true we are working to amend our Diocesan Constitution. A special committee, with its head of the Very Rev. Dushan Klipa, our Vicar-General, is entrusted to work on that problem. According to the decisions of our Church National Assemblies and in the meaning of the Constitution of the Diocese, the duty of this committee is to prepare and recommend all amendments of the Constitution of this Diocese.

The work of this Diocesan Committee is near to the end, and, when they finish all amendments and after their approval, all material will be sent to the Bishop's Council for final approval.

Because of the Church needs of our people on this continent, the opinion exists, and it is a decision of our Church National Assembly that this Diocese should be elevated to the rank of Metropoliya. In connection with our previous correspondence, this Metropoliya, besides a Metropolitan, should have two-three Vicar-Bishops—which means sufragans in America, or Vicars to us. In connection with this and in the spirit of our old Church Laws, as well as the existing laws, it sould be written in respect of

our Church authonomy and the rights of these people, having in mind that it never may happen that the Serbian people may separate from its Partiarchate, but, at the same time to be consulted in regard to the election of its Bishops. A media must be found to satisfy the rights of the Holy Bishop's Council of our Church as well as of our people here. Our efforts are only in that direction.

To resolve that problem, it is most likely that this Spring our special delegation will arrive in Belgrade with all proposals and elaborate. The delegation has to come in connection with Brethren-Bishops of the Holy Bishop's Assembly, so that, after its return to the U.S.A., the delegation may explain to our people about the possibilities, and then recommend what has to be done.

Our view is that this delegation may invite Your Holiness to visit this Diocese next year and to be present at a special meeting of our Church National Diocesan Assembly (Sabor). During the stay of Your Holiness, here, you may visit all our bigger Church congregations and serve the Holy Liturgy blessing all the faithful of this Diocese. At the same time, some material help to our Patriarchate and its mission might be collected.

In hope that this explanation is sufficient in connection with the aforesaid question of the Holy Synod, I am, remaining in brotherly love in Christ,

American and Canadian Serbian
Bishop
Dionisije

To: The Holy Bishop's Synod
of the Serbian Orthodox Church
Belgrade, Yugoslavia

PLAINTIFF'S EXHIBIT 5A

SERBIAN ORTHODOX CHURCH

No. 1725/237
17th May 1963
Beograd

The Venerable Archimandrite
Dr. Firmilian Otzokolyich
Pittsburhg

The Holy Council of Bishops of The Serbian Orthodox Church at its meeting of 10th May 1963 under ASNo. 20 and 21/77 reached this decision;

"Following petition of The Church National Council of The American-Canadian Diocese and American-Canadian Bishop No.115 of 13-11-1962, and No.127 of 25th May 1962, that, because of the great size and extent of this Diocese, it is necessary for this church jurisdiction to choose some more Bishops, The Holy Council of Bishops on the basis of art. 16 of The Constitution of The Serbian Orthodox Church, out of the present American and Canadian Diocese creates three Dioceses as follows:

1) Middle-American Diocese with residence in Monastery of St. Sava—Libertyvill, at which remains still His Grace Bishop Dionisie;

2) West-American Diocese with residence in Los Angeles, and

3) Middle-Eastern American and Canadian Diocese with residence in Detroit.

With previously obtained agreement of His Holyness Serbian Patriarch GERMAN. to the Middle-Western American Diocese is added South Africa, and to The Western American Diocese all parishes in Central and South America, which have been up to now, in accordance with art. 55 p. 12 of The Constitution of The Serbian Orthodox Church governed directly by His Holyness The Patriarch.

The boundery-line between The Middle-Western and The Western American Dioceses will follow the 95 Meridian.

To The Middle-Eastern Diocese will belong parishes in the states of Michigan, New York, Pennsylvania and Canada.

As soon as Bishops are appointed to the newly created Dioceses, there will be immediately instituted all necessary diocesalboards and bodies.

The final fixing of bounderies of the newly created Dioceses, adjustement of their Constitution to the newly created situation and all other questions of church organisation of these Dioceses, will be subject of special study of Bishops together with Church National Council and their proposals will be submitted for final decision to the Holy Council of Bishops".

In accordance with the decision of The Holy Synod of Bishops of the above stated number and date You are advised of this for Your information.

With blessing

For President of
HOLY SYNOD OF BISHOPS,
member
BISHOP OF TIMOK
EMILIAN m.p.

ADDENDUM TO PLAINTIFF'S EXHIBIT 5A
CORRECTION RESPECTING PLAINTIFF'S EXHIBIT "5A" FOR IDENTIFICATION

Plaintiff's Exhibit "5" for identification, which is in the Serbian language, contains the following, which is not included in Plaintiff's Exhibit "5A" for identification, which is the English language translation of Plaintiff's Exhibit "5" for identification:

On Plaintiff's Exhibit "5", the addressee, Archimandrite Dr. Firmilian Ocokoljich is identified as "Administrator of the Mid-West American Diocese". Plaintiff's Exhibit "5A" is accordingly amended to include the foregoing quoted words.

The identification of the signer of Plaintiff's Exhibit "5" for identification is incorrectly set forth on Plaintiff's Exhibit "5A" for identification. The signer, as well as his title, as it appears on Plaintiff's Exhibit "5", for identification reads: "President of the Holy Bishops Synod, Serbian Patriarch German".

Plaintiff's Exhibit "5A" for Identification, which is an English translation of Plaintiff's Exhibit "5", erroneously recites the identification of the signer of the letter as follows: "For President of the Holy Synod of Bishops, member, Bishop if Timok Emilian".

Plaintiff's Exhibit "5A" is accordingly amended to include the quoted language.

PLAINTIFF'S EXHIBIT 7

The Holy Episcopal Synod
of the
Serbian Orthodox Church
No. 1726/zap. 238
May 17, 1963
Belgrade

To the Very Reverend Archimandrite
Dr. Firmilian Ocokoljich
Pittsburgh

The Holy Episcopal Synod in its meeting under the above number and date brought this decision:

"Executing the decision of the Holy Episcopal Council AS No. 20 and 21/zap. 77 of May 10, 1963 concerning the founding of new dioceses in the United States of America, and the decision of the Holy Episcopal Synod Sin. No. 1664/zap. 188 of May 10, 1963 concerning the arraignment and suspension from priestly functions and diocesan government of His Grace Bishop Dionisije, the Holy Episcopal Synod on the basis of Article 70, section 21 of the Constitution of the Serbian Orthodox Church and Article 13,

Constitution of the Serbian Orthodox Diocese in the United States of America and Canada, appoints as temporay administrators:

1. For the Mid-Western American Diocese the Very Reverend Archimandrite Dr. Firmilian Ocokoljich, pastor of the Serbian Orthodox Church in Pittsburgh;

2. For the Western American Diocese the Very Reverend Archimandrite Gregory Udicki, pastor of the Serbian Orthodox Church in Youngwood;

3. For the Mid-Eastern American-Canadian Diocese the Very Reverend Proto-presbyter Stevan Lastavica, pastor of the Serbian Orthodox Church in Windsor, Canada."

You are informed of the above decision of the Holy Episcopal Synod so that you may take notice of the same, and in accordance with said decision relieve His Grace Bishop Dionisije and take charge of the Mid-Western American Diocese till further notice, informing the Holy Episcopal Synod of your action.

For the President of the
Holy Episcopal Synod
Member, Bisop of Sumadija
(Signed) VALERIJAN

ADDENDUM TO PLAINTIFF'S EXHIBIT 7
CORRECTION RESPECTING PLAINTIFF'S
EXHIBIT "7" FOR IDENTIFICATION

On Plaintiff's Exhibit "7" for identification, is contained therein the following: "To the Very Reverend Archimandrite Dr. Firmilian Ocokoljich, Pittsburgh.

The language reciting the addressee should be corrected to read as follows: "To the Very Reverend Archimandrite Dr. Firmilian Ocokoljich, Administrator of the Mid-West American Diocese, Pittsburgh".

PLANTIFF'S EXHIBIT 7D
HOLY BISHOP'S SYNOD
OF THE SERBIAN ORTHODOX CHURCH
No. 1726/minutes 238
may 17th 1963
in BELGRADE

YOUR GRACE

Holy Synod of Bishops on their meeting of the above number and date gave the following decision;

"Fulfilling the decision of the Holy Bishop's Council AC No. 20 and 21/minutes 77 of may 10th 1963 about the forming of new dioceses in the United States of America, and the decision of the Holy Bishop's Synod No. Syn. 1664/minutes 188 of may 10th 1963 about the starting the case of suspension from ecclesiastical duties and the dissolving from the ruling of the Diocese of His Grace Bishop Dionisije, Holy Bishop's Synod on the basis article 70, Pt. 21 of the Constitution of the Serbian Orthodox Church and Article 13 of the Constitution of the Serbian Orthodox Diocese for the United States of America and Canada are appointing for temporary administrators:

1. For the Middle West American Diocese the Very Rev. Archimandrite Dr. Firmilijan Ocokoljich, parish priest of the Serbian Orthodox church in Pittsburgh;
2. For the Western American Diocese the Very Rev. Archimandrite Grigorija Udicki, parish priest of the Serbian Orthodox Church in YOUNGWOOD;
3. For The Middle Eastern American and Canadian Diocese the Very Rev. Stevan Lastavica, parish priest of the Serbin Orthodox Church in Windsor, Canada."

We have an honor to inform You about the above mentioned decision of the Holy Bishop's Synod for Your information *asking that the government of the entrusted Diocese to hand over to the appointed administrator Very Rev. Archimandrite Dr. Firmilijan Ocokoljich until the charges against You are investigated and judged.*

For The President of the
Holy Bishop's Synod, member
Bishop of Sumadia
VALERIAN

HIS GRACE BISHOP OF MIDDLE WESTERN
AMERICAN DIOCESE LORD DIONISIJE
LIBERTYVILLE, ILLINOIS.

SEAL

PLAINTIFFS' EXHIBIT 8

Holy Synod of Bishops of the
Serbian Orthodox Church
No. 3602/min. 653
October 28th, 1968
In Belgrade

EXCERPT

from the minutes of the Holy Assembly of Bishops for 1963.

In these Minutes it is recorded that a meeting was held of the Holy Assembly of Bishops in special session on July 27/14, 1963, in the Patriarchial palace in Belgrade, and that in the Minutes of that meeting on pages 10, 11 and 12 the following is recorded:

" 8

42

Then His Holiness moves that the report of the commission of the Holy Assembly of Bishops be read, which was entrusted with the duty to investigate the case of His Grace Bishop Dionisije. The report of the commission was read by His Grace Bishop Stefan of Dalmatia, which states:

"The Commission which was appointed by the Holy Assembly of Bishops at the afternoon meeting on the 26th day of July, 1963, examined the material concerning the question of the activities of His Grace Bishop Dionisije after his suspension and establishes:

1. That His Grace Bishop Dionisije received the decisions of the Holy Assembly of Bishops and the Holy Synod Syn. No. 1664/min. 188 of his removal from the diocese, which can be clearly seen from his reply directed to the Holy Synod and to other church institutions and official persons in America;

2. That he does not recognize the same decisions, but rather continues to perform the duties of a diocesan bishop;

3. That he does not recognize the Court of the Holy Synod of Bishops and that he places the church-national assembly above the Holy Assembly of Bishops and Synod;

4. That he refused, being suspended, to surrender the duties to the newly appointed administrator (Letter of Bishop Dionisije to the "Plenum" of June 6, 1963);

5. In his act of June 3, 1963, No. 194, he acknowledges receipt of the act of the Synod No. 1664/min. 188 and states, that he does not recognize the decision of the Holy Assembly of Bishops and Synod of the division of this one diocese into three new dioceses; neither his suspension nor removal from governing of the diocese, neither will he surrender the duties to the appointed administrator;

6. That by his letter of June 12th, 1963, he called upon all clergy and all church-school congregations not to obey the directives of the administrators of the three new dioceses who were appointed by the Holy Synod of Bishops;

7. Although he was suspended in a proper canonical manner, he calls upon the clergy and people not to receive the Investigating Commission of the Holy Synod of Bishops, which he forbids to go about the diocese and to celebrate divine services;

8. That he does not recognize the judicial competence of the Holy Synod of Bishops, but only the judgment of the people over there (circular letter of June 28, 1963);

9. That in another circular letter entitled "The American-Canadian Serbian Church Triumvirate" of June 28th, 1963, Bishop Dionisije word for word says: "I call upon all Serbdom in the world to stand together with us in our holy and Saint-sava Serbian national struggle.

"I accept under the wings of this diocese, all church congregations in the whole world, which do not wish to be subject to Belgrade, the pro-Titoist decisions of Patriarch Gherman and the unlawful decisions of the Holy Assembly of Bishops";

10. Even though he is suspended and under interdiction, Bishop Dionisije by his act of June 7th, 1963, dismisses Archimandrite Firmilian from duties as episcopal deputy, because he submits to the decisions of the Holy Synod of Bishops;

11. That in the same manner by his act of June 7th, 1963, he dealt with the Archpriests Miodrag Mijatovich and Miodrag Djurich, because they have agreed with the stand of Archimandrite Firmilian; and

12. That he by his act of June 14th, 1963, although under suspension, relieved of his duties as episcopal vicar general the Archpriest Dushan Klipa because he submitted to the decisions of the Holy Synod of Bishops, etc.

According to everything above noted, the Commission established that a case has arisen completely relative to article 111 and in connection with article 104, points 1 and 4, of the Constitution of the Serbian Orthodox Church and recommends to the Holy Assembly of Bishops as a decision the following:

"The Holy Assembly of Bishops of the Serbian Orthodox Church establishes, that His Grace Bishop Dionisije Milivojevich has trampled his episcopal oath and lost the conditions as set forth in article 104, point A and D, of the Constitution of the Serbian Orthodox Church foreseen for the position of a diocesan bishop, and on the basis of article 111 of the Constitution of the Serbian Orthodox Church, is deposed from duties of a diocesan bishop, and proclaims the Mid-western American Diocese vacant."

Belgrade
July 27, 1963

Members of the Commission:

Metropolitan of Crna Gora-Primorje, Danilo
Bishop of Shumadija, Valerijan
Bishop of Zhica, Vasilije
Bishop of Banat, Visarion

In regard to this question a discussion followed in which participated His Grace Bishop of Zhica, Vasilije; His Grace Bishop of Banat, Visarion; His Grace Bishop of Gornji Karlovac, Simeon; and His Grace Bishop of Dalmatia, Stefan.

Following the discussion His Holiness the Serbian Patriarch Gherman moved that the matter be voted upon, since unanimity on this question has not been achieved. He suggests that the vote be "for" and "against" the submitted report of the commission. After the balloting His Holiness the Serbian Patriarch Gherman announces that for the motion of the Commission the vote was 14, against was 3, and 2 unmarked ballots.

His Holiness the Serbian Patriarch Gherman announces to the Holy Assembly of Bishops and proclaims that the motion of the commission is adopted.

From the same Minutes on page 18 and 19 it can be seen that upon the reading of the decision, the following personally signed the decision:

President of the Holy Assembly of Bishops the Serbian Patriarch Gherman

Members:

Metropolitan of Zagreb DAMASKIN
Metropolitan of Dabro-Bosnia NEKTARIJE
Metropolitan of Crna Gora-Primorje DANILO
Bishop of Timok EMILIJAN
Bishop of Nis JOVAN
Bishop of Shumadija VALERIJAN

Bishop of Srem MAKARIJE
Bishop of Bachka NIKANOR
Bishop of Zhica VASILIJE
Bishop of Banat VISARION
Bishop of Slavonija EMILIJAN
Bishop of Zvornik-Tuzla LONGIN
Bishop of Gornji Karlovac SIMEON
Bishop of Zahum-Hercegovina VLADISLAV
Bishop of Ras-Prizren PAVLE
Bishop of Banjaluka ANDREJ
Bishop of Dalmatia STEFAN
Bishop of Sabac-Vaijevo JOVAN

That this excerpt from the indicated Minutes is faithful to its original, is certified and attested unto by

November 9, 1968 — Supreme Secretary
Belgrade (SEAL) — Holy Synod of Bishops
The Patriarchate — Mladen Mladenovich (signature)

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 9

THE HOLY BISHOPS' SYNOD of
THE SERBIAN ORTHODOX CHURCH
No. 2401/zap. 354
July 29th, 1963
Belgrade

Rt. Rev. Archmandrite
FIRMILIAN OCOKOLJICH, newly elected
Bishop of the Middle-Western American Diocese
Pittsburgh, Pa.

The Holy Bishops' Council of the Serbian Orthodox Church at its session, under the No. AS.42/zap.2, of July 27th, 1963, have decided:

"The Holy Bishops' Council of the Serbian Orthodox Church have decided that Bishop Dionisije Milivojevich violated his bishop's oath and lost the conditions for the position of the diocesan bishop, according to Art. 104, paragraphs A and G, of the Constitution of the Serbian Orthodox Church and in accordance of the Art. 111, of the Constitution of the Serbian Orthodox Church has been discharged from his duty as a diocesan bishop, and the Middle-West American Diocese is proclaimed as vacant."

You are informed about above mentioned for acknowledgment.

(Seal) SERBIAN PATRIARCH
+ GERMAN

P.S. The above document is notarized by American Consul at Belgrade, on July 29th, 1963, number: 2788497.

PLAINTIFFS' EXHIBIT 10

THE HOLY BISHOPS' SYNOD of
THE SERBIAN ORTHODOX CHURCH
No. 2402/zap. 355
July 29th, 1963.
Belgrade

Rt. Rev. Archmandrite
FIRMILIAN OCOKOLJICH, newly elected
Bishop of the Middle-Western American Diocese

The Holy Bishops' Council of the Serbian Orthodox Church, at its session of July 27th, 1963, AS.No. 43/zap. 2, elected you for the Bishop of the vacant Middle-Western American Diocese, with the See in the St. Sava Monastery, in Libertyville, Ill.

In accord with the decision of the Holy Bishops' Synod, under the above mentioned number and date, you are informed of the same for your acknowledgment.

With blessings,

(Seal) SERBIAN PATRIARCH
+ GERMAN

(notarization omitted)

PLAINTIFF'S EXHIBIT 11

To
His Grace Bishop Mister Dionisije
Libertyville
From
The Holy Bishops' Synod of
the Serbian Eastern Orthodox Church
ref. no. 2401/min. 354
July 29, 1963, in Belgrade
Your Grace,

The holy Bishops' Assembly of the Serbian Eastern Orthodox Church, on its Meeting held on July 27, 1963, ref. no. AC no. 42/min. 2, has decided

"The Holy Bishops' Assembly of the Serbian Eastern Orthodox Church states that His Grace Bishop Dionisije Milojevic broke his bishopian oath and lost the conditions as under paragraph 104, items A and G of the Constitution of the Serbian Eastern Orthodox Church as stipulated for position of diocesan bishop, and on the ground of paragraph 111 of the Constitution of the Serbian Eastern Orthodox Church; dismisses him from the duty of the diocesean bishop, and the Mid-west American Diocese proclames vacated."

We are honoured to notify your Grace about the above explained.

Your Grace brother in Christ

Serbian Patriarch
German
(signed)

PLAINTIFFS' EXHIBIT 12

HOLY SYNOD OF BISHOPS OF THE
SERBIAN ORTHODOX CHURCH

No. 2403/min. 356
July 29, 1963
in Belgrade

The Very Reverend Archimandrite
GREGORY UDICKI, bishop-elect of
the Western American Diocese

The Holy Assembly of Bishops of the Serbian Orthodox Church, at its meeting of July 27, 1963, under (Holy Assembly) No. 44/min.2, has elected You as diocesan bishop of the Western-American Diocese with its See in Los Angeles.

In accordance with the decision of the Holy Synod of Bishops under the above number and date, you are hereby informed of the foregoing for your information.

With blessings

PATRIARCH GERMAN
S/+ German

(Translator's certification omitted)

PLAINTIFFS' EXHIBIT 13

HOLY SYNOD OF BISHOPS OF THE
SERBIAN ORTHODOX CHURCH

No. 1932/min. 264
June 13, 1963
Belgrade

The Very Reverend Archimandrite
GREGORY UDICKI, administrator
Western-American Diocese

Youngwood

The Holy Synod of Bishops at its meeting under the above number and date, received into acknowledgment the announcement of His Holiness the Serbian Patriarch German, that he, in accordance with article 55, point 4, of the Constitution of the Serbian Orthodox Church, authorized their Graces Bishop Hrizostom of Branichevo and Bishop Visarion of Banat, to ordain (consecrate) together with one other Bishop, to the rank of bishop the most worthy Very Rev. Archpriest Stevan Lastavica, pastor of the Serbian Orthodox Church in Windsor, who was by decision of the Holy Assembly of Bishops (Holy Assembly) No. 36/min.80 of May 11 of this year, elected as bishop of the Middle-Eastern American and Canadian Diocese.

We note that accompanying their Graces Bishops Hrizostom and Visarion will be Very Rev. Father Mladen Mladenovich, supreme secretary of the Holy Synod of Bishops and Protodeacon Bozidar Tripkovic, secretary of the Ecclesiastical Court of the Archbishopric of Belgrade-Karlovci.

The day of consecration will be subsequently determined by their Graces Bishops Hrizostom and Visarion, by agreement with Very Rev. Lastavica.

We inform You of the foregoing for your information.

(SEAL) For the President
of the Holy Synod of Bishops
member, Bishop of Timok
S/ Emilijan

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 14

HOLY SYNOD OF BISHOPS OF THE
SERBIAN ORTHODOX CHURCH
No. 1966/min. 265
June 13, 1963
Belgrade

The Very Rev. Archimandrite
GREGORY UDICKI, administrator
of the Western-American Diocese
Youngwood

The Holy Synod of Bishops at its meeting under the above number and date, rendered this decision:

"Relative to the decision of the Holy Synod of Bishops no. 1664/min. 188 of May 10, 1963, by which proceedings were initiated against His Grace Bishop Dionisije of the Mid-Western American Diocese, the Holy Synod of Bishops authorizes their Graces Bishop Hrizostom of Branichevo and Bishop Visarion of Banat to go to the U.S.A., and, in accordance with articles 67 and 90 of the Regulations and Procedures for Ecclesiastical Courts of the Serbian Orthodox Church (Penal Code) to conduct proceedings, to investigate the matter and to conduct necessary hearings of the accused and witnesses, and to conduct the gathering of evidence, and to submit a report with all relative documents concerning their findings to the Holy Synod of Bishops for further competent proceedings.

For the performance of this work Their Graces are assigned as assistant technical personnel Archpriest Mladen

Mladenovich, supreme secretary of the Holy Synod of Bishops and Protodeacon Bozidar Tripkovic, secretary of the Ecclesiastical Court of the Archbishopric of Belgrade-Karlovac."

We inform You of the foregoing decision of the Holy Synod of Bishops for your information.

For the President
(SEAL) of the Holy Synod of Bishops
Member, Bishop of Timok
S/ Emilijan

(translator's certification omitted)

PLAINTIFF'S EXHIBIT 15

June 9, 1963

To the Holy Synod of Bishops of the Serbian Orthodox Church Patriarchate, Belgrade, Yugoslavia

It is our honor to inform Holy Synod of Bishops that on the 6 of June this year in the Monastery of St. Sava a meeting of the Diocesan Plenum, the Diocesan Council, Diocesan Church court and the Diocesan Auditing Board, 39 members who after a discussion of seven hours have brought the following decisions:

1) Moved by Mr. Todor Polic, seconded by Mr. Jovo Pavich, Diocesan Plenum unanimously declares that this Plenum is not entitled neither to accept neither to reject the matter of the division of the American Canadian Diocese into three Dioceses but the whole subject it transfers to the Church National Convention which because of the urgency of the case it calls for the days, 6, 7, 8 and 9 of August, 1963 in the Monastery of St. Sava at Libertyville, Illinois. In place of the one scheduled for the days 14, 15 and 16 of October this year and according to the regulations and decisions of the last Church National Convention held in 1960.

2) Moved by the Priest Alexander Dimitrijevich, seconded by Mr. Milosa Konjvich, it has been resolved to send a letter telegram to the Holy Synod of Bishops with warmest petition that in the shortest time as Synodal investigation commission should be sent at the expense of the accusers, which will investigate and complete the case of charges against our Bishop Sir Dionisy because according to the aforesaid resolution no changes in the administration of this dioceses can be done prior to the decision of the scheduled Church National Convention. This proposal has been accepted by all the present except two which voted against.

The presiding Dr. Uros L. Seferovich

PLAINTIFF'S EXHIBIT 16
THE HOLY BISHOP'S SYNOD
of the
SERBIAN ORTHODOX CHURCH

BEOGRAD

Page 1.

Indictment against the suspended and deprived of duty active diocesan Bishop Dionisije Milivojevich

Prosecutor

Bishop of Zicha Vasilije

By its decision No. 2591/Min. 369 of September 3, 1963 the Holy Bishop's Synod gave to me a duty that, as prosecutor, to write an indictment in matter of guiltness of suspended and deprive of duty as active diocesan Bishop Dionisije in accordance of 69 Article of Rules and Regulations for the Ecclesiastic Courts of The Serbian Orthodox Church, and after all case to return to the Holy Bishop's Synod.

Authorized The Holy Bishop's Synod

I am finding: that The Holy Bishop's Synod of The Serbian Orthodox Church in accordance with Art. 70, p. 35 under b of By-Laws of The Serbian Orthodox Church and Art. 63 Rules and Regulations for The Ecclesiastic Courts in Serbian Orthodox Church is authorized to judge in first instance in case of guiltiness of Bishop Dionisija Milivojevicha.

Guiltily Bishop Dionisije Milivojevich

Bishop Dionisije-Dragoljub-Milivojevich is born 13/26 of July of 1898 in village of Rabrovac, near Smederevska Palanka in Serbia from parents Zivota and Stamenija Milivojevich.

The Holy Bishop's Assembly of The Serbian Orthodox Church at its session of June 9/22 of 1938, under ASNo. 938/min. 132 elected him as vicar of the Serbian Patriarch with a title as Bishop of Moravice. He remained on that duty until December 8th (Nov. 25th) of 1939 when the Holy Bishop's Assembly at its session under ASNo. 218/Min. 61 elected him as diocesan Bishop of the American and Canadian Diocese.

On duty of American and Canadian Diocese Dionisije was until May 10th, 1963 when The Holy Bishop's Assembly by its decision ASNo. 20 and 21/min. 77 suspended him, started legal action, imposed upon him temporary forbidance of church action and released him from the governing of the Diocese.

Page 2.

Moral picture of suspended Bishop Dionisije Miliovejevich

Jovan Dutchich: "There are persons blind for colors, but this one is blind for moral".

To get a real picture and a real opinion as well as right judgment about Bishop Dionisije it is inevitably necessary that his psychical view be illuminated by his own ethic behavior, life and work in Diocese of America and Canada

from the time of his arrival to that Diocese until his suspension from 1939 until 1963. There is enough material by which could be reflected, illuminated and looked over during his 24 annual Bishop's life and work among the Serbian Orthodox people in the New World.

Eye witnesses, clergy and laymen, the closest co-aids of Bishop Dionisije are revealing unusual and shameful things from his life, behavior and in relation toward society. Let them speak.

Priest Dushan Popovich of Chicago writes: "Immediately when I arrived in the United States (I mean in Chicago), I remarked with great surprise that a very bad opinion about our Bishop is existing among the people . . .

The late Jovan Dutchich . . . in those first days said to me that "The greatest misfortune of immigrant Serbs in those decisive days is to have such a Bishop." "My father Dusan, there is neither man nor Bishop."

Looking on Bishop Dionisije during some gathering in Gary, Indiana, "How he is speaking with women, touching their arms, backs and other things," Jovan Dutchich was shocked. Seeing and knowing some havier things for Bishop Dionisije, this our famous diplomat and writer could not hold himself of saying: "If this our Bishop is female he would have a 'book'." (*Enclosure* Number IV —Memorandum of Rev. Dusan Popovich of November 23, 1962 to the Metropolitan Damaskin page 27/2 and page 35/5).

Another person is writing in the same newspaper: "Do you

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want me to quote names of a dozen of our most eminent friends which told me of Bishop's bad doings, and in comparison with them the stories of sexually-unethical Cardinals of the middle ages and of Rasputin in Russian

steps are like flower. Do you want me to state to you those who saw the evildoer Dionisije attacking honest woman in their honest houses, to enlist those who found him in "public houses," or those before whom monks ethically equal to devol, described how Bishop and monks are chasing immoral women through some Mexican brothels? Do you want me to name those whose women he attacked when they were coming to the Monestary to guard Serbian children during the summer time, to state those to whom he entered in houses during the nights, or to enlist his mistresses and girl friends thorughout America? Do you want to name the priests, which you gave to me, whose wives he attacked promising to their husbands as reward a red belt?" (*Enclosure* No. IV from the article "The black Dionisije" of Dobroslav Jevdjevich in paper: The Serbian Independence No. 159 of 1961, P. 219.)

This part of Jevdjevich's article is as some kind of content of different violations from the life of Bishop Dionisije, which will be explained and enlarged by further documentation. To support it I mention one dialog between Dr. Urosh Seferovich and Hieromonah Nikolaj Dazgich.

Dazgich: What is doing that my copular?

Dr. Seferovich: Which copular, for the name of God! For whom you are asking me?

About our Bishop and of nobody else.

Please, leave me and this people in peace, said Dr. Seferovich shocked by this Dazgich's statement.

That is not any secret, said Dazgich. He (Bishop) always when arriving to me, visits me only because of that. When he comes in here, and until he is taking bath, change and dress himself, sending me in Mexican brothel to find some prostitute, and after that we are going together. Only, you know we have a big problem. Bishop likes blondies and among Mexicans it is very difficult to find such a per-

son! ! ! (*Enclosure* No. IV—Memorandum of Rev. Dusan Popovich page 31/3 and report of Chicago of November, 1962 to The Metropolitan Damaskinos, page 144)

This dialog is supported by Rev. Ljubisav Djurich of South St. Paul, Minnesota

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which he is giving under oath before The Gospel and venerable cross. "In here," he says, "in the state of Minnesota, there are a great number of men and women saying of different immoral acts of Bishop Dionisije, but all of them are afraid that their name be mentioned and to testify. He attacked many women and one was even raped by him. She is now married, has children, and living in St. Paul, Minnesota.

I decided to announce what I know about him and only that what I heard from his own mouth, but not "hearsay."

When Bishop arrived a day before the Trinity Day in 1953 to dedicate our St. Sava Church in St. Paul, Minnesota after the vesper service which I performed, he asked me to bring him to some hotel, not to a private house, to rest and to find for him a younger women with which he will pass the night, and to her he would pay for that service, but only such a female which could guard the secret, that nobody may know it. I was shocked and said to him: "Bishop, are you respecting the holy cannons and your monastic vows and could you dare to dedicate our church tomorrow?" He answered "Father Djurich, canons are very old today in this modern century, and I am a man, and could not be without a woman." (*Later arrived documents*—Letter of Rev. Ljubisav Djurich of Minnesota of August 19th, 1963 to Very Rev. Mladen Mladenovich, p. 367.)

Since Bishop Dionisije could go so far then it could be believed to be exact what was said by Rev. Vladimir Milinkovich and his wife, Ljubica. When they met with Bishop Dionisije on April 5th, 1962 in the presence of his wife, Ljubica, Dionisije asked him: "How is your parishioner Evelyn Petrovich? It will be very good that she might go together with me to California. There is time and places. She is only around 30 years old." (*Enclosure* No. IV—Letter of Rev. Vladimir Milinkovich—Indianapolis—of November 24, 1962 to Metropolitan Damaskinos, p. 29. *Enclosure No. X*—Declaration of Vladimir and Ljubica Milinkovich of June 18, 1963, in Canton, Ohio, p. 251-253.)

Uncontrolled and blind by sex and sin, Dionisije made a bad move during a banquet of a Church Congregation in Detroit, where there was one "beautiful lady," people's representative of that district. Before all the people at that banquet Dionisije behaved very unpolitely toward that lady so that she demonstratively left the banquet to the

Page 5.

surprise of all those present." (*Enclosure No. IV*—Association of University Educated Theologians of Serbian Orthodox Church of June 8th, 1962 to Patriarch Guerman p. 207/10.)

There are Worse events than that. In a night club of the biggest hotel in Cleveland, Dionisije was holding on his knees a prostitute in "Eve's" costume and her nudity covered by silk of his headcover—panakamilavka. (there)

Seeing immoralities of Bishop Dionisije one archpriest writes: "His relation toward the female people comes into sexual criminality, what is public secret for everybody." (*Enclosure No. IV*—Letter of archpriest Stevan Prostran of October 21 to Metropolitan Damaskinos, p. 85). Therefore, it could be often heard: "Attacks on wives and

daughters in homes of houseowners where he is staying on his diocesan people, and especially on wives of his priests." people. (*Enclosure No. IV*—Association of University Educated Theologians to Patriarch Guerman p. 207/10). For that reason in the case of Bishop Dionisije is seen unbalanced sex, attacks on sisters, wives and daughters of his diocesan people, and especially on wives of his priests."

Enclosure No. 4—Miomir Dubak—Pleasing to The Holy Bishop's Synod of July 4, 1961, p. 217.) "But, it could not be expected that taking in family sanctity, ceaseless connections with women and girls, may stay covered all the time, un-noticed." (*There* p. 215)

Because of that behavior, Bishop Dionisije has no dignity among people. Only because of that it could happen in the home of Bogoje Manic of Elgin, that Miodrag Andrich would cut his beard with the scissors. Andrich would have beaten him if others didn't prevent it and "threw him out." (*Enclosure No. IV*—letter to Metropolitan Damaskinos of Chicago of 27-XI of 1962 p. 146/6)

What Bishop Dionisije is outside of residence, in Diocese, he is such and in his own house. That has been seen and felt by his priests. In great despair they are writing: "From the seat of our Diocese there is not any example of spiritual and moral life, but there is a place of immorality and other moral trash. . . . ."

(*Enclosure No. IV*—Vladimir Milinkovich, letter p. 129) And

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other continuing: "Very often it happen in the house of Diocese in Libertyville, Bishopls orgy with some problematic woman. Because of that he chased out the old Sava Mikovich from the Monastery and afterward from the Diocese to the street in order that he could not be a witness of his action."

As some kind of rule Bishop Dionisije is going out of monastery every evening and he is back with seals of lipstick and open pane." (*Enclosure No. IV*—letter from Chicago, p. 146/6).

And a third is saying: "The archpriest told me that and other things, but mostly of immoral life governing in that house which is not a residence but a house of greatest sex and immorality."

(*Enclosure No. IV*—Rev. Dusan Popovich—Memorandum p. 27/1.) Looking to such a person as Bishop Dionisije, it is hard to believe that a Bishop is in question. He is similar to everything else but not to that what he should be. Such impression is gotten when you draw your attention to the vocabulary which is used by Bishop Dionisije even on very important meetings. Among all others he is most immoral and his tongue vomits the poison. That is seen from further.

During one occasion in Chicago, in a church hall, Bishop Dionisije's said: "Look brothers and sisters! Some people would cut my legs, the others would cut my arms, some would cut my head, and some, something else! !" Allusion was so clear that some people were laughing and others were ashamed."

(*Enclosure No. IV*—Rev. Dusan Popovich—Memorandum p. 29/2.)

On another occasion, writes another person: "My enemies are threatening me; some to disrobe me, some that will send me to Mount Athos to penalize me, and others that they will cut another thing, excuse me please, ladies."

(*Enclosure No. IV*—Very Rev. Stevan Prostan, letter p. 85.)

In regard to some painted eggs by wife of priest Dimitrijevich, before priests and people Bishop Dionisije is shouting: "Did you fear that somebody did steal Bishop's penis.

. . . They are saying that it was done by one priest's wife. . . .'' (*Enclosure No. IV*—Rev. Vladimir Milinkovich —letter p. 129.)

During one occasion in Waukegan in Slovenian hall before the people in his greeting speech, Bishop Dionisije said in these words: ''Some people among you don't want to work because they feel as old, but I feel young. There are among you some good ladies and they know that I am young.'' (*Enclosure No. IV*—letter of Chicago 1962 p. 144.)

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During an opening of some gathering in Milwaukee Bishop Dionisije said ''I know that all of you will say Bishop Dionisije knows that in here will be enough beautiful and young women, and he came for that reason.'' His accusers farther say: ''Here there is not a parish in which Bishop Dionisije has not its sexual station. Through those persons of both sex he rules with life of our church in here.'' . . . Sending priests to compete for parishes, Dionisije teaches ''Open only your trousers and go among ladies-parishioners and do not care any more.'' *INCLOSURE No. IV*—Association of University educated theologians, p. 207/10)

Very Rev. Stevan Prostran writes: ''He, in my home, said once to my daughter in law, that we may hear all of us as well as his co-travellers: You know, Mrs. my buttocks is so hard that does not feel any more the strikes.'' *(INCLOSURE No. 4* Very Rev. Stevan Prostrain-letter p. 85)

To all remarks and critics against his behavior and conduct Bishop Dionisije is replaying: ''And I am alive person and need everything as you.'' (*INCLOSURE No. IV*—Rev. Vladimir Milinkovich—letter p. 129)

Toward this statement people is replaying with boycott as in one letter is said: ''Would that be unbelievable: For

the celebrations of churches many invitations are sent but about the Bishop of the same church the people would not hear anything? Here is not needed to point out the money for Bishop but antipathy against him.'' (*INCLOSURE No. IV*—Very Rev. Stevan Prostrain—letter p. 89.

That antipathy forced Mr. Dusan Silasky to write in newspaper ''THE UNITY'', that the Bishop Dionisije is the most unworthy and most shameful person in history of Serbian Orthodox church whichsoever was in position of a diocesan Bishop.'' (*INCLOSURE No. IV*—pleading of Miomir Dubak p/.213)

BISHOP DIONISIJE AND WOMEN

''My women are sweet. This should not be grudged. And I am man as others and I have a right for life.'' (Bishop Dionisije)

From the beforesaid the psychical view, even so dark, of Bishop Dionisije is very clear. What it will be said further will confirm the imagination of an indeed unworthy Bishop of The Serbian St. Sava Church of Christ.

First I will mention the persons which Dionisije attacked in his foolishness, but unsuccessfully. After that will come persons connected with his immoral life, about whom some stories are existing and costing

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of Dionisije so much of material expenses.

A known Serb of America, Mile Radakovich, studying soul and character of Bishop Dionisije, who gave to him a name, corresponding to his person, as ''skunk'', by the name of an animal smelling so much, in serbian ''tvor''. (*INCLOSURE No.* IV—letter of Very Rev. Stevan Prostran p. 89/3).

Talking to the Very Rev. Stevan Prostrain Radakovich said to him: ''It is same for me to say, but, imagine, he attacked my daughter Mary, skunk!'' (Ovethere)

Rev. Dusan Popovich is quoting, that, beside of others, it was said by Bishop Dionisije, that he was charged in Belgrade by Branko Pekich, "That he attacked his daughter in his house" and about it was said by Peter Martinovich and Radule Ostojich. (*INCLOSURE No. IV*—Rev. Dusan Popovich *memorandum p. 47/11 and Very Rev. Stevan Prostran, letter p. 85).

Once Bishop Dionisije forgot himself during celebration of Family Day of St. George of May 6th 1958 in house of president of Church Congregation of Waukegan. Beside the other guests was and Bishop Dionisije. "He was very impudent toward one lady, named Kaja. The host and husband of that lady warned him but the Bishop didn't pay attention. He fingered her lower part of body before all guests that finally, host Mr. Vidakovich, couldn't stand it more, took Bishop under arms and threw him outside of the doors. About that event long was said in Waukegan and vicinity, and many thing else what happened." (*INCLOSURE No. IV*—letter from CHICAGO of 1962 p. 144. Inclosure No. XII p. 281, the same).

The same he did in Elgin, around 30 miles from Monastery, in home of Milan Pavlovich where he attacked his wife Ann offering to her his love service. She succeeded to defend herself and when her husband came she told to him. Before witnesses: Srira Miloshevich, Mioderag Andrich and others. Her husband threatened to break ribs of Bishop Dionisije and he did it in a house of a teacher Serb in Elgin." (*INCLOSURE No. IV*—letter from Chicago of 1962 p. 143).

Rev. Dusan Popovich of Chicago, read one letter written to Bishop Dionisije by Very Rev. Milan Rakich of St. Louis, to whom complained his parishioner Ann against Dionisije's action during her visit in Monastery with her children in the camp building in summer time. In that letter is said: "One day in camp around noontime in room of that lady appeared nobody else but Bishop Dionisije. After greeting, she got up from bed where she came to rest a little. Our Bisop came to her and asked her: could you kiss the Bishop? She answered, yes, but in hand as her parents taught

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her as well as all other priests should be kissed.

Would you kiss me on my cheek? asked the Bishop.

But, Bishop said to her, leave the hand out, Ann, but would you kiss me in here, showing his cheek, then he approached her, grabbed her, turned her to bed and started to kiss her putting his tongue in her mouth. She pushed him somehow and ran out from room crying. "(*INCLOSURE No.* IV.—Rev. Dushan Popovich—Memorandum p. 29-30/2-3." Thanking to Very Rev. Milan Bakic, Bishop Dionisije didn't go to the court to wash the shame he brought to that house. This event caused a great loathing in St. Louis." (*INCLOSURE No. IV*—letter from Chicago of 1962, *Inclosure no. XII* p. 281)

Before witnesses: Very Rev. Mladen Mladenovich, main secretary of the Holy Synod, and archdeacon Milan Stojanovich of Lackawanna, Mary Dritto of Springboro, Pa. gave a very heavy testimony against Bishop Dionisije.

As first neighbor to church property on Shadeland, she visited Bishop Dionisije on Shadeland on August 12th 1951 acquainted with him." From that it passed one day or two. When I returned from my daily work, I started to work in house as always. Immediately after that in yard of my house appeared an auto and after that I saw before my doors, alone, Bishop Dionisije. I was very surprised because I wasn't notified about his arrival. I received him politely but his intentions were not to give me an honor but to soil it.

Without much introduction he started to propose to me some love offers. He began his action to fulfill his intentions and my defense didn't have much chance, but anyhow I succeeded to go out and run in my car away." (*INCLOSURE No. V*—Declaration of Mary Dritto, p. 223/19)

Under an oath a written declaration gave Very Rev. Emilijan Glocar on July 14th 1963 about a clever and immoral step of Bishop Dionisije toward his wife. He said: "In 1941 or 1942 Bishop Dionisije came to my parish, Cleveland, to serve the Holy Liturgy and afternoon he called me and ordered to come for him to the Railroad Cleveland station. Two times he asked me when I will come and I said to him—immediately after I put down the receiver . . . and to take my coat.

Immediately I went to the Railroad station looking for Bishop Dionisije and I couldn't find him. Then when I called home I learned that Bishop Dionisije came to my apartment immediately I left the house. I was naive and didn't have a clear picture. When I arrived home my wife Bosiljka said to me: do not leave the house, and I won't be alone with Bishop

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what he is trying to do. Tomorrow he have to serve the holy liturgy, and do not have any shame before our children. My daughters, Milena and Olga were of 10 and 8 years old. I didn't react to the Bishop's action even though it was clear to me that he intentionally took me out of house that he might be alone with my wife Bosiljka. I entrusted that thing to Lawyer Silaski when Bishop start my persecution." (*INCLOSURE No. VI*—Emilijan Glocar, declaration, p. 225-7/15

About a scandal of Bishop Dionisije with Mrs. Dimitrijevich during a solemn occasion this is what writing Slavoljub Radovich, officer of King's body guard says:

"From Libertyville, after a gathering finished, we started to Chicago around 1 A.M. After a longer time of looking between parked cars before the hall I saw some silhouettes and when I approached, I saw that they were Bishop Dionisije and Mrs. Dimitrijevich. Mrs. Dimitrijevich then came to me and, embarrassed, said to me "Bishop Dionisije asked me to remain in Libertyville for tomorrow, to help him, and I decided to stay in here for another day."

One month after that Radovich looked through window of the house of Sreten Gajich in Chicago, and he saw this: "in salon were seated Bishop Dionisije, Mrs. Dimitrijevich and Mrs. Gajich. Bishop Dionisije was in best feeling, gay and laughing making grimaces by hands toward Mrs. Dimitrijevich. It was touching the face and shoulders of Mrs. Dimitrijevich by Bishop Dionisije. Later on I discovered that Mr. and Mrs. Gajich were mediators between Bishop Dionisije and Mrs. Dimitrijevich and they met in their house. Because of that connection later the ordination of Mr. Dimitrijevich came on and Mr. Dimitrijevich was shaved as he was in marriage." (*LATER arrived documents*—letter of Slavoljuba Radovica to Bishop Chrisostomos of July 27 1963, p. 353-355)

Two similar testimony gave Stojanka wife of priest Radoslava Kovachevicha from which is seen how Bishop Dionisije is frivolous in talking with wives of his priests. Evidently it is shown how much his soul is corrupted of a brain spoiled of a high rank person of the Serbian Orthodox Church.

It was on the eve of 4 October 1959 when Bishop Dionisije had to perform the Holy Bishop's service. During the supper our Bishop, beside of some vulgar talking, asked Sava Vujkov to sing some shameful songs, saying more, more, counting them by fingers. Among other talking

Bishop Dionisije said: "I am very bad person but toward Mrs. Andja Polich I do not think that way because I am considering her as my sister."

On May 6 1960 in Indiana Harbor, in house of Very Rev. Marchetich,

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came to him Mrs. Stojanka to greet him, "but in shaking hands, she says he draw tight her hand and looked to her not saying anything. I was perplexed and didn't know what to do. . . ."

On November 6 1960 in Libertyville: "Between else Bishop Dionisije directed to me a blaming question: Why you need one more child. Didn't you have one as enough or to await a little time than to have one after another? You and your husband are crazy, showing toward the head." I asked him—why? He answered to me, because you are thinking that God will take care, but you must think it, too, but not every year to bring children and then Bishop will be guilty that you have such a small parish. I was pious too, when I came in here. After that he continue to advise me do not have more children. There is some new medicament. I do not think that you will kill your children . . . but I think that you could prevent pregnancy. "After that he explained how that medicine should be used and when." *(INCLOSURE No. IV,* declaration of Stojanka Kovachevich, p. 53/5, and repeated and certified of June 18 1963. *INCLOSURE No. VII* pp. 229-233)

By its letter to Metropolitan Damaskinos Momchilo Djuicj says:

"You need to accept Rev. Kovachevich . . . whose wife Rasputin Dionisije raped and to whom he didn't give any parish until she gave herself to Dionisije. He, Rev. Kovachevich, will give to you a certified testimony and to ask

your protection." *(INCLOSURE No. IV*—Momchilo Djuich—letter to Metropolitan Damaskinos Sept. 25 1962 p. 101).

What Djuich privately wrote he said openly "Before the Bishops of Belgrade declaring, that among the priests there is one which wife was attacked in sexual plan and after that her husband might get a parish. Declaration of Djuich had a very unpleasant result, and situation was very grave. Then, husband of that wife, said:

"It is true what Vojvoda said, bitter truth, brothers, priests and Your Graces", and he was very depressed. *(INCLOSURE No. XII*—Report from the convention of priest of the American and Canadian Diocese of Nov. 19, 1962 p. 265). The same Momchilo Dujich said in the presence of Bishop Sionisije, and he didn't react.

"Before the delegates from Belgrade and the Bishop Dionisije, priest Momchilo Djuich said: "There are on this convention some priests whose wives Dionisije attacked blackmailing with a threat that their husbands will not have any parish if their wives are not submitting to him." It was expected some reaction by Bishop Dionisije but he remained silent."

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(INCLOSURE No. XII—the same report p. 265.)

There is no doubt, that the person about which it has been said, is wife of priest Radoslav Kovachevich. She repeated two times the same testimony about the disorder talking with Bishop Dionisije. She didn't mention that Bishop Dionisije raped her what was disclosed by Momchilo Djuich and confirmed by her husband before all as a "bitter Truth." From her declaration that could only be suspected. Probably she didn't say it because of shame. But after all what was said even before Bishop Dionisije, and he didn't try to defend himself, or to deny it, it is evident that that one is only his sin.

From other examples it will be seen a bigger moral fall of Bishop Dionisije than it was shown before. . . .

In Serbian circles of Monroe there is mentioned a sexual life of Bishop Dionisije with some beautician. *(INCLOSURE No. IV*—Momchilo Djuich letter to Miodrag Mijatovich of Sept. 25 1962, p. 123)

An event with Stana Boduljak shows how Bishop Dionisije do not have neither faith in God nor ethics. It is wondering how so long the orthodox Serbs over there could have him. It was said: "With Stana Badoljak, or Badoljan, of Montreal he slept in a hotel of Hamilton registering as husband and wife. With her he went to Windsor to serve the holy Liturgy. People of Windsor warned him that he should not come any more to serve the holy liturgy after he slept with a mistress. Somehow they knew of this action of him." *(INCLOSURE No. IV*—letter to Metropolitan Damaskinos of Chicago of Nov. 27th 1962 p. 146/6; *INCLOSURE No. XII*, copy of the same letter p. 285).

How much that financially cost him let the following examples show it up.

The first is with some Francis—called Bozica. In Waukegan he delivered to her a two story building of more than $20,000.00 of value, and dresses, jewelry, and other things over $10,000.00. Bishop Dionisije married that Francis to Milan Tepdpsich, even though he wasn't divorced from his first wife, daughter of Very Rev. Mladen Vukichevich of Jagodina. *(INCLOSURE No. IV*—letter to Metropolitan Damaskinos of Chicago of Nov. 27 of 1962 p. 143 and *INCLOSURE No. XII*—copy of it p. 279.).

It is a special romance of Bishop Dionisije and a young girl Rada Milentijevich, what is too low even for the greatest gangster of world.

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About it some different persons are writing to whom we could trust. So Rev. Dusan Popovich wrote: "Very Rev. Svetozar Radovanovich told me about some Rada Miletnijevich, for which he said, she is "swojevka," student and that Bishop Dionisije is living with her and support her in school, he bought to her a new car." *(INCLOSURE No. IV*—Rev. Dusan Popovich—Memorandum p. 29/2).

Stojan Lazarevich, as eyewitness and others are confirming the before said fulfilling it with other details. He met her often saying: "It appeared in Monastery some young of 20 years girl, named Rada, just arrived from Europe. During his travel to Europe Rada was every day in Monastery with her new car." She was a student of Chicago University and living in International Home. *(INCLOSURE No. IV*—Stojan Lazarevich, report to the Holy Bishop's Synod of Oct. 14 1962, from Chicago, p. 69/7).

Another is writing: "Rada Milentijevich as student in Chicago, to which Bishop bought a new Chevrolet, and after a Cadillac, was going with him openly through Chicago. They met each other in motels, hotels and private homes. With him she traveled by car to California and other places of America and Canada." *(INCLOSURE No. IV*—letter to Metropolitan Damaskinos of Chicago, p. 143)

"In Canada, in Niagara Falls . . . he granted to his youngest girl friend around 15 acres of land. About that gift even today is said in Chicago with laughing." *(INCLOSURE No. IV* The same p. 142 and *INCLOSURE XII* copy of this letter p. 279).

Slavoljub Radovich, officer of King's Guard, says: "There are many shames and disgraces done by Bishop Dionisije with female people among whom is open scandal

with Miss Rada Milentijevich which came from Belgrade to Milwaukee for a marriage with a good man, but what was spoiled by Bishop Dionisije immediately he met her. Immediately she came to Chicago Bishop Dionisije bought to her a car. After one year she asked him to buy to her a Cadillac and he did it. Rada was saying, I don't need the Bishop Dionisije but his dollars." Milentijevich brought several time and Dr. Anka Kostich and they had a good time. Since Milentijevich was forced to leave the United States, she went to Paris, where she rented a bigger hotel, and the money she got from Dionisije. *(Later arrived documents*—letter of Slavoljob Radovich of July 27 1963 to Bishop Chrisostomos, p. 353-357).

Milka Suka, known under nickname "Bishop's Milka" is a person mentioned more often in connection with Bishop Dionisije. *(INCLOSURE No. IV*—Re. Momchilo Djuich, letter of Sept. 25th 1962,

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p. 123.)

Rev. Dusan Popovich regarding of Milka Suka, is writing: "I had an opportunity, on my each step, to listen to terrible things about immoral life of our Bishop. . . . That is as public secret, in our colonies everywhere are talking about his immoral life with some Milka Suka, which passed away, but which is mother of one of our priests." *(INCLOSURE NO. IV*—Memorandum p. 29/2).

And Milka Suka cost too much of Bishop Dionisije. A house in Libertyville of $18,000.00 he gave to "his first love in America, Milka Suka. Condition was that she, after her death again to give to him that property. That is known to Toma Stankovich, Slvko Stokovich of Libertyville and perhaps Firmilijan Archmandrite. The same and Rev. Svetozar Radovanovich, who threw out Milka Suka from

Bishop's residence since he could not endure her terrorizing both Bishop and of employees." *(INCLOSURE NO. IV*—letter of Chicago 1962 p. 142 and *INCLOSURE No. XII,* the same letter copied p. 273.)

Because of Milka Suka Dionisije often, as a pimp, came in difficulties with his cooperators and employees, and issued some rashly decisions. After one argument with Dimitrije Balach, two months nobody knew it where Balach was. Dionisije chased him from the Monastery. Argument was caused of Bishop mistress Milka Suka. "You don't see anything beside of Milka Suka. She is all the time in your mind" said Balach to Bishop Dionisije. That happened before other people and before then secretary of Diocese Archmandrite Firmilijan. *(INCLOSURE No. IV* letter from Chicago 1962 p. 141.)

This brief revue about different female persons in connection with Bishop Dionisije, confirms many stories about immoral life of Bishop Dionisije by which he is degraded down even of animals." Beside of Milka Suka, which some time governed in Monastery, and was scandal in this country, Bishop Dionisije, indeed, had and have, according his own words, many other women . . . *(INCLOSURE NO. IV*—letter of Chicago of 1962, p. 143).

Beside of many scandalous stories in house of Milan Andrejevich, before his wife Sophia and others, Dionisije said and this: "What Milka wants? Does she think that I have to belong only to her, the old one? I like young girls and they like me too. I have in every place one or two. Sweet are my women. This should not be taken in bad part. I have also a right for life. . . ." *(INCLOSURE NO. IV*—letter of Chicago of 1962 p. 146/6; see and letter of Fladimir Milinkovich p. 129, *Inclosure No. IV).*

DIONISIJE AND HOMOSEXUALS

"They are as bride and groom."

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Bishop Dionisije is charged for homosexuality. If it is taken into consideration his perversity in regard to his behavior and relation with women, what is leading to pathology, then these people, accusing him for homosexuality, are not far from the truth.

One distinguished archpriest is writing: "Uneducated monk and homosexual, what was confirmed by police record, and as such appointed as parish priest. When I spoke recently with one monk he said to me: those two are like bride and groom." *(INCLOSURE*—letter of Very Rev. Paul Zelich to Metropolitan Damaskinos of Nov. 7, 1962, p. 83).

As homosexualist openly is mentioned Mitrofan Kresojevich. As Hieromonah he was condemned in Arizona December 1, 1953 by civil court as homosexualist. Three years passed from that time and Bishop Dionisije elevated him to the rank of protosingelos, and after in rank of abbott giving him a parish. Report in English gave Very Rev. Dusan Klipa with an original signature of Kresojevich, himself.

Rev. Momchilo Djuich is writing in English language probably about the same person: "One homosexualist, after a disclosed pederasty, elevated Dionisije." *(INCLOSURE No. IV*—Momchilo Djuich—letter to Miodrag Mijatovich of Sept. 25, 1962, p. 123).

Monks similar to Kresojevich are main helpers of Dionisije. "Three of those remaining monks are known pederasts and they are closest to Bishop Doinisije and today are practically ruling with Diocese." *(INCLOSURE No. IV*—Association of university educated theologians, p. 173/11).

And further, a special chapter of accusations of Bishop Dionisije is his many sides sexual and bisexual life. *(INCLOSURE No. IV*—The same Association p. 206/9).

This his life became an enormous scandal for religious life of this Diocese and endanger to destroy all ethic principles of our private and public life, of our people's life. By influence of this terrible bisexual life of immorality he poisoned and destroyed all respect toward moral measure of our faith in Diocese, so that many start to consider that sin is normal status of man's life and his soul and that moral mission of the church in salvation of souls be as unimportant." *(INCLOSURE No. IV*—Association of University educated theologians p. 157/2.)

Different scandals of Dionisije should not cover and hide his real patalogique and homosexual nature. Students of Monk Schools of Rakovica and Visoki Dechanany explained to us their different events." *(INCLOSURE No. IV* The same, p. 207/10).

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That this may not be taken as fantasy "The Association will, upon a request of The Holy Bishop's Assembly, submit proofs and witnesses about his hard double sexual life with both sexes." *(INCLOSURE No. IV*—The same Association p. 157).

Dionisije fell to the level of before christian pagans about whom St. apostle Paul is saying: "When they professed themselves to be wise, they became fools. Wherefore God also gave them up to uncleanness through the lusts of their own hearts, to dishonor their own bodies between themselves . . . men with men working that which is unseemly . . . (ROMANS chp. 1. v. 22, 24, 27).

DIONISIJIE HETERODOXY (NON-ORTHODOXY)

The scandalized moral life of Bishop Dionisije is a proof of his spoiled brain. He drowned in sin that he is not any

more in position to stay in truth and to differ it from lie. For the orthodox teaching is not existing any more. For he everything is the same and all unpermitted in teaching he permits and justifying as orthodox.

One protestant woman wanted to pass to the orthodoxy without any previous preparation in orthodox religion. The orthodox priest remarked to her, that such transposing to orthodoxy is not permitted, but she replied, that does not see any difference between orthodoxy and protestantism. And when the priest asked about it the Bishop Dionisije he got the answer: that the Bishop is accepting sins of that woman and reprimanded the priest. *(INCLOSURE No. IV*—letter of Rev. Vladimir Milinkovich to Metropolitan Damaskinos, p. 133/3).

During the way Bishop Dionisije permitted to Very Rev. David Popovich in Pittsburgh to one groom of different religion only to read a prayer on Slavic language for passing to orthodoxy since he will not understand it anyway.

Similarly he did in case of one Czechoslovakian, unknown confession, 1944. He ordered to the priest that before burial service should read a prayer for passing to the orthodoxy.

Dionisije gave an order to a priest of Minnesota in 1959 to put in Book of Baptized one child of some Serb soldier of Minnesota, without any additional instructions. Priest didn't do considering it as uncorrect. *(INCLOSURE No. IV*—Letter of Rev. Mladen Trbuhovich of San Diego, Calif. of 1962, p. 137).

Scandalized by life of Dionisije "young and enthusiastic hieromonah Timotije Tepshich left not only The Monastery but the Diocese in which he worked as mole and because of Bishop Dionisije he left the orthodoxy too." *(INCLOSURE No. IV*—letter from Chicago to Metropolitan Damaskinos of 1962 p. 165/5).

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To Episcopal church passed a celibate priest Petkovich who was in Pittsburgh their priest. Before he was an orthodox priest in celibate in Pittsburgh of 1941-1942. He was convinced by Bishop Dionisije to marry after the ordination and he remained orthodox priest one year over. *(INCLOSURE No. IV*—letter of Mladen Trbuhovich, p. 139).

Newspaper "FREE WORD" of 1944 published a document that, after the ordination, protosindjel Danilo Kozomara, parish priest of Glaerton, Pa. . . . After that he elevated him to the rank of Archmandrite. He recommended him to the holy Bishop's Synod to be bishop. *(INCLOSURE No. IV*—letter of Trbuhovic, p. 139).

He ordained one chemist, married with a divorced wife. By her help he came to that rank. Now he is archpriest. *(INCLOSURE No. IV*—Association of University educated theologians, p. 169).

Two other candidates he ordained even though their wives prior were married. In that very moment of ordination one of them wasn't divorced from her first husband. In other case wife of candidate had an illicit child with another person in the very moment she married by church marriage with a future priest. *(INCLOSURE No. IV*—Association . . . p. 171/10).

Very Rev. Milan Brkuch of Milwaukee, Wis. warned Bishop Dionisije before ordination "That Dusan Vavich, a theologian, is sick of epilepsy and that he is under police investigation in connection with an affair with some girl of 11 years old." Nevertheless Bishop Dionisije ordained him as priest. *(INCLOSURE NO XVI*—a written statement of V. Rev. Brkich of August 2, 1963, p. 313/20).

Bishop Dionisije does not care for canonical rules regarding of preparation of clergy before to perform the holy liturgy. It is said that three years ago, during a great

people's gathering on Shadeland, around 2 A.M. together with some young woman, holding under arms, to the place where lambs and pigs are barbecued, and drank a great quantity of hot whisky as well as eating of warm lamb a big piece. There were around him hundreds of younger visitors and two priests. When he finished with eating and drinking, joking with young people, he went out embracing his young attendant. The same day he performed the holy liturgy, the sacred sacrifice, and had the holy communion giving it to the serving priests. *(INCLOSURE No. IV* . . . Association of theologians . . . p. 207/10).

About the same event and under its signature gave its declaration.

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Raja Milinkovich before witnesses Borko Borchich and Rev. Miodrag Djurich of Lackawanna. He sais, that might happen in the eve of Day of Mother Angeline Aug. 12, 1957 or 1958. Mother Angeline is protector of that place. On her day a round 10,000 Serbs are gathered. Among them that event of Bishop Dionisije was widely said. *(INCLOSURE No. IV*—Declaration of Raja Milinkovich p. 243).

Bishop Dionisije personally lost the spirit of Orthodoxy and understanding for orthodox views toward the church life. For that reason his accusers are saying, that unorthodox view everywhere is seen even in inside of our orthodox churches of his Diocese. When some old lady from Yugoslavia visited the U.S.A. she visited one church and it seemed to her that she is in some Roman Catholic church, then she said to her son, to bring her to some of our church. *(INCLOSURE No. IV*—Association . . . theologians p. 165).

With this circumstances no wonder why he permitted to priest of Indianapolis to transfer in parish home one room into chapel since they do not have any church building, and after to permit by telephone that he be chased out by those which don't care for church. *(INCLOSURE No. IV* —Rev. Milinkovich, letter p. 133).

Bishop Dionisije is accused for a scandal caused by his declaration, in American press, that he will pray God for Stepinac, whom communists are condemned because he is a good Christian." *(INCLOSURE No. IV*—letter to Metropolitan Damaskinos, p. 153/II).

In this spiritual and moral confusion Bishop Dionisije is permitting himself to serve the holy services with nonorthodox, and is forbidding the orthodox priests, not being in his jurisdiction, to serve in his Diocese. He forbade two Serbs, priests, under jurisdiction of Russian Metropolitan Anastasios, to serve in our holy churches but, he, himself, in the same time is participating in services with nonorthodox, heretics and schismatics bishops and priests, and giving to them the holy communion even they do not believe it." *(INCLOSURE No. IV*—Association . . . theologians p. 175-177/10-13).

MATERIALISM OF BISHOP DIONISIJE

"For where your treasure is there will be your heart also." (Matthew 6:21)

If attentively life of Bishop Dionisije is followed, and everything else required by a life, logically it must come to the presumption: that he, for a such life and action, must by some unpermitted way obtain some material and financial means. Another way could not be presumed. . . . From

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further exhibition it will be clearly seen how Bishop Dionisije obtained its material means permitting him such a immoral life. Evidently, chaos in which he fell pushed him more and more to get the finance by some dishonest way.

The best estimation of Dionsije's wickedness gave Bishop Nikolai of Zicha, a venerable memory. He prayed by this way: "O, Lord God, give to my brother Bishop Dionisije health, chastity, power, love, endurance, prudence and everything else from Your innumerable gifts, but, do not give to him dollars because they will pull him out to the hole without a bottom." *(INCLOSURE No. IV*—Rev. Dusan Popovich—Memorandum p. 35/5).

These prophetic words of Bishop Nikolaj about the Bishop Dionisije became a truth. Some people asserts: that he has an immense property and big number of houses. On one place it was said. "So far as it is known to me, he has a big property in Californa. Some lands in California are with home buildings for rent.

In State of Illinois he has in several places houses and lots.

In Waukegan, beside of Lake Michigan, he has a lot and two-story building.

In Libertyville he bought a house in his name.

In Canada, in Niagara Falls, he has some property around 100 acres from 2 years ago.

Near Buffalo, State of New York, he has also a great property bought several years ago for a small amount of money.

Near to our Monastery he has an Old aged Home together with Slavko Stokovich from which he has exactly $1000.00 monthly income. *(INCLOSURE No. IV*—Letter to Metropolitan Damaskinos of Chicago of 1962 p. 142-143).

History of purchase of property of Shadeland is a special one from which Bishop Dionisije got a big capital on account of Diocese. They are asserting that he bought and sell some houses. The same is with this Diocesan property. In connection with this property are spread and said different stories. There are some reports in press about that work of Bishop, how is rich, etc. *(INCLOSURE No. IV*—Memorandum Dusana Popovicha p. 35/5).

Some people is showing approximate amount of money of that buying, and that he bought it for $39,000.00, gave for some repairs $800.00, and sold it to Diocese for $63,000.00. *(INCLOSURE NO. IV*—letter of Momchilo Dujich p. 117, the same and *INCLOSURE XII* p. 269).

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The third are saying, instead to buy that property immediately on the name of Diocese, Dionisije bought it on his own name that he might pay less for it. After that he sold it to Diocese, that he could get more money for it. This property was bought for $35,000.00 and then sold to the Diocese for $60,000.00 plus expenses of transfer charging them to Diocese. But from his earning he didn't deduct donations from the people which came in first year. *(INCLOSURE NO. IV,* Association . . . p. 162-163).

The same is confirmed by some priests during the priestly meeting of November 19, 1962 with difference that it was said, that property was bought for $30,000.00 and sold to the Diocese for $63,000.00. *(INCLOSURE NO. XII* report from priestly meeting, p. 265).

A report of Auditing Committee is catastrophic for Bishop Dionisije, which was submitted on occasion of review of financial books of Shadeland of July 15, 1963. The committee is stating:

1. Shortage in the amount of $773.70;
2. There are not duplicate of 51 receipts from the time when Bishop Dionisije managed the property;
3. There are not another 30 duplicate of receipts with writing of Bishop Dionisije;

4. Loan on property on January 1, 1962 was $29,-090.63 and on December 31st of 1962 was of $51,-916.00 and on July 15 of 1963 was $73,208.97.
5. Manager of property Josef Getz is costing much more the property than he could bring profit to it;
6. Social security tax was not paid for six months in 1962 and for 3 months in 1963. Penalty for this was $197.05 and withholding tax was $887.88.

Auditing Committee says in his report, that this disorder came because the property wasn't managed properly according Diocesan By-Laws and because Bishop Dionisije took himself to manage from December 1, 1961.

This report was signed by: Milan Radakovich, president, U. Bulatovich member; Pane Jerich member and Milan Zunich, secretary. *(INCLOSURE NO. XII*—report of Auditing Committee of July 15, 1963).

According confirmed events Bishop Dionisije withhold for himself sum of $2,331 which he drew from a bank to be sent to the Patriarchate to Belgrade for its need as donation of some priests and church congregations.

For need of The Serbian Patriarchate in Jugoslavia it was sent by check No. 27271 $1200 of Lake Trust and Saving of Chicago, Ill. on Nov. 22, 1962. To the present time Patriarchate didn't receive that money, nor anything in that value from Bishop Dionisije, which indorsed check, as it could be seen on check itself. That was confirmed offically by the

XIV report of Patr. Exec. Board signed by Bishop Paul (p. 297).

For needs of Serbian Orthodox Church in Jugoslavia it was sent through First National Bank of Akron of Nov. 1, 1962 $130.00 as well as sum of $1,001 from the same bank by its check No. 24731 of Nov. 1, 1962. To the present time

Patriarchate didn't receive that money nor some equal value from Bishop Dionisije, who cashed those checks a it could be seen on checks themselves. And this was confirmed by Patriarchate Executive Board by its official statement of July 19, 1963. *(INCLOSURE NO. XIV*—report of Patr. Exec. Board of July 19, 1963).

Bishop Dionisije is charging immense amount of money for his travel visit of church properties, visits of churches and parishes as well as for marriages. That would be confirmed by the following examples.

In one occasion of 1962, Mrs. Andja Polich said to priest Momchilo Djujich, that she sent recently $400.00 to Bishop Dionisije to travel to California, but only he shouldn't take any money from Mission of Jackson. But she said: That Bishop Dionisije charged the Diocese for $300.00 and the Mission of Jackson $300.00. One young man from the committee of Jackson giving him that money, said to him—You are not our Bishop, you are a skunk." *(INCLOSURE NO. IV*—letter of Rev. Momchilo Djujich p. 107).

From minutes of Church Congregation of Joliet of Sept. 27, 1953 is seen, how he is eager for money, and that is the reason, that church Congregations are not calling him for their celebrations. There is: "On this meeting of June 18th opinion expressed was, that Bishop should not be invited, because always there is some misunderstanding for his expenses. In discussion it was stated, that Bishop for his expenses wants a sum of $50.00 and that is too much to be given." *(INCLOSURE NO. IV*—letter of V. Rev. Stevan Prostran to Metropolitan Damaskinos of October 21 of 1962 p. 85/2).

Bishop Dionisije blessed the marriage of .... with his bride from the United States of America-Ljubica. That was immediately after departure of Milinkovich from Jugoslavia to America, when he didn't have any

means for his support. Bishop Dionisije charged this performing of marriage $200.00. Money he asked by letter. Milinkovich had that check in his possession by which money to Bishop Dionisije he sent. *(INCLOSURE NO. X* —Written statement of Rev. Vladimir Milinkovich of July 18, 1963 p. 252).

According this situation it is not unbelieveable statement of the

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Association of University educated Theologians, "that they know for two cases of SIMONIJO—(taking money for ordinations) even they have reasons to believe, that they are more such cases." (*INCLOSURE NO. IV* Association . . . p. 163 and *INCLOSURE NO. XII* p. 275).

Conclusion is clear. Bishop Dionisije forget the eternal evangelical truth: "Lay not up for yourself treasures upon earth, where moth and rust doth corrupt, and where thieves break through and steal. . . . For where your treasury is, there will your heart be also." (Mattsew 6:19, 21).

BISHOP DIONISIJE AS INTRIGUER by Glisha Rapsich

"Bishop could cause the two pictures
to hate each other on the wall,
And us unlettered peasants and workers
so much the more."

Bishop Dionisije is born as an intriguer. This inborn habit he developed and perfected to the heights of an art of the most famous artist, which is very hard to find an equal among the most spoiled men. Having come to this conclusion, John Duchich made complaints against Bishop Dionisije, who wanted to disrupt the friendship between him and Fotich. "Bishop Dionisije," Fotich said, "spread the intrigue among the people, that I came to America in order to grab the embassy from Fotich."

At that time John Duchich said to Glisha Rapsich, from Gary, Indiana: "Bishop could cause the two pictures to hate each other on the wall, and us unlettered peasants and workers so much the more." (enclosed No. IV—Rev. Dusan Popovich, from Chicago, Memorandum, page 29/2).

Intrigues of Bishop Dionisije are the only medium to assure himself against the individual and group attacks and criticism due to his scandalous and riotous living. And because of that he came to idea to use an old and proven method. *Divide et Impera.* Being on friendly terms with an individual or a group, he takes advantage to turn this group or individual against each other, using the filthiest intrigues which are lacking of any moral."

At the other place it is said: "Bishop Dionisije cannot stand anybody around him. First he succeeded with his intrigues to turn Bishop Nikolai and Bishop Irinej against each other. He threw out Bishop Irinej from his sleeping quarters. He was rooming with the Monastery's personnel, after he was thrown out. He had to go from Libertyville.

Bishop Nikolai being pressed by Dionisije . . . at first went to Slavko Stokovich, and then to the Russians in Canan". (enclosed No. IV—letter to Metropolitan Damaskin from Chicago at 1962, page 141).

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Even there Bishop Nikolai was not left alone by Bishop Dionisije. That's why Bishop Nikolai on ten days before he died left this note written with the pencil: "Your Boss (thinking on Dionisije) is working for ten years already against me and wants to bury me alive." (enclosed No. IV—association . . . of seminarists, page 171/10).

"As an excuse that there was impossible to work with him, he ran away archimandrite Firmilian from Monastery and the office, so that he was wandering around for long time without any means for living."

V. Rev. Sava Mikovich is 80 years old. He is a witness of many wrong doings of Bishop Dionisije. That's the reason he was thrown out from Monastery and Shadeland. More than one year he wandered around. Finally, he returned to Jugoslavia—to "Crnogorsko-Primorska" Diocese. (enclosed No. IV—letter to Metropolitan Damaskin from Chicago at 1962, page 141).

That he could get rid of V. Rev. Svetozar Radovanovich, he hid some of his documents during the session of the church court, which he used as a reason to relieve him from all the duties. He was left in the street without any means for livelihood. Because of that Radovanovich used to say: "By the wishes of my Bishop I am eating the grass, and I am always fed." (enclosed No. IV—letter to Metropolitan Damaskin from Chicago at 1962, page 142).

Bishop Dionisije caused the intrigues between V. Rev. Ugljesa Jelich and the members of his Church Board, which made Rev. Jelich to leave the Libertyville. (enclosed No. IV—Same letter from Chicago at 1962, page 142).

In order to get rid of the executive board members of the Monastery's parish, Bishop Dionisije invited to dinner Miodrag Andrich and Spiro Milosevich. "They were given the task to attend the meeting and disrupt same. This they did. The same night he relieved the board from its duty, and stopped the outflow of the money from the bank. This he did not succeed, but he got rid of the board with one decision." (enclosed No. IV—letter from Chicago at 1962, page 146/6).

Bishop Dionisije "identified himself with the Church itself which is the blaspheme, and all those people who were faithfull to church and of social prominence, who critically looked upon him and his destructive work, he announced as traitors, godless, and the enemies of the church and made them as unwanted elements in the eyes of this land, which

circumstance took sometime a tragic consequences." (enclosed No. IV—Association . . . of seminarists, page 195/4).

The same way Bishop Dionisije acted toward the about tens of

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were not on duty in the church. He "used the slanderous language on these men all around and with the lies of political nature he made them unwanted among the people." (inclosed No. IV—same association . . . of seminarists, page 173/11)?

To what limits the blindness and cruelty of Bishop Dionisije went in his intrigues, one can see from these two examples.

Bishop Dionisije is appointing the Reverend "Ljubisav Djurich to South St. Paul parish with a warm recommendation to the church board. At the same time he writes another letter to Dr. Korach to make impossible for Rev. Ljubisav to stay in the parish, since he was killing the people, good Serbs during his stay in Serbia. According to one investigation in So. St. Paul, the Commission found the work of Rev. Djurich as satisfying. But at the close of investigation a young man gave to Commission a letter of Bishop Dionisije addressed to Dr. Korach, after which Rev. Andra Popovich shouted: "This is awful and shame of Dionisije. In one letter he is praising him, in another he is seeking his head. . . . Ljubisav had to leave the parish because of Bishop Dionisije although the church court under his presiding decided differently. He threw out in the street a good priest with wife and two small children with nothing in his pocket and with no guilt whatsoever" . . . (enclosed No. IV—letter from Chicago at 1962, page 145/5).

Then another case of a young priest from Indianapolis. He says "that he was left without a parish, thanks to Bishop Dionisije." Presenting his case he said that Bishop wrote to him that he "must stay on the parish", and to the church board to get rid of him "from the parish." Both letters are written on the same day and both were signed by Bishop Dionisije." (enclosed No. XII report from Priest's Meeting in November 19, 1962, page 267).

Indeed, it is impossible to get anywhere with such a man. It is clear now that he could hold his position as the diocesan bishop only through the intrigues of such dimensions!

BISHOP DIONISIJE AS A MENTAL CASE

Reading charges and notifications by which different persons are accusing Bishop Dionisije for whatsoever misdoings, it is hard to not create an opinion that the words are about some mental case, crazy person of whom everybody should watch himself as of those mentioned in Gospel. Indeed, his name is legion (Luke 8:30). Since such an impression could

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have a person reading such statements how much such expression must get persons which spoke with him and listened to his talking and looked at his misdoings. They are asserting that fact Stojan Lazarevich is writing: "That His Grace Dionisije is a hardly sick, pathologic person there is not any doubt. What I saw with my eyes and heard with my ears, personally convinced, it is so much really that could not be a subject of imagination. *(INCLOSURE NO. IV*—Stojan Lazarevich—report to the Holy Bishop's Synod, p. 59/2).

To the same conclusion got and other theologian persons. They are saying "All unchastened life of our Bishop was running for more than two decades, systematically

and with bigger and bigger pathology, always in foggy conditions and darkened sites, power of sin erupted irresistibly to the daylight and became obvious and scandalous on each step. *(INCLOSURE NO. IV* . . . Association . . . p. 157/2).

Very Rev. Stevan Prostran is writing: "Regarding the person of Bishop . . . he is a pathologic case and . . . fatal for all and for our Diocese." *(INCLOSURE NO. IV*—letter of Very Rev. Stevan Prostran, p. 85).

Much definite in diagnosis of sickness of Dionisije are professional doctors, very close to him persons. One of his "personal doctor" is saying that he already mental case." *(INCLOSURE NO. IV*—Association . . . p. 193/3).

Another is Dr. Urosh Seferovich, if he is not that personal doctor of Dionisije. He before people is saying: "I assure you, that to him (Dionisije) is no cure: he is perversive—sexually sick person." *(INCLOSURE NO. IV*—Rev. Dusan Popovich—Memorandum p. 33/4).

CONCLUSIONS AND RECOMMENDATIONS FROM THE UNITED STATES IN CONNECTION WITH BISHOP DIONISIJE

Very Rev. Stevan Prostran is writing:

"For God's sake, is any curing of that evil?"

Living beside of such a Bishop all normal persons are in confusion. They are wondering how that could be permitted that one maniac may play with chastity of people, to drop down dignity of a Bishop of Serbian Church and to swing with achievement of St. Sava as nobody else to the present time. So many times confirmed statement of Stevan Prostran is repeating. He writes: "I didn't hear anybody speak of our Bishop with respect, and all friends of church, in robe or without it, all the time are asking: For God's sake, is any curing of that evil? And Very Rev. Prostran giving a motion: If Bishop Dionisije could not

be persuaded to retire and move out then he should be judged and sentenced." And that may not look to

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you that I am talking "post mortem", you could ask me to swear on it. Send to me a written oath and I will sign it." (*INCLOSURE NO. IV*—V. Rev. Prostran, letter p. 87 and 89).

Very Rev. Paul Zelich says: "He (Dionisije) is living in flesh and by flesh. He belongs to the world but not to the Christ and Christian church. We do not need for such a Bishop." *(INCLOSURE NO. IV*—Very Rev. Paul Zelich—letter p. 81).

People see it as only solution and exit from that chaotic situation in removal of Bishop Dionisije, since he led to that chaos. It is stated: Position in which is today our American and Canadian Diocese is about hopeless, situation to which led it personally His Grace Bishop Dionisije, what is not difficult to prove." *(INCLOSURE NO. IV*—Stojan Lazarevich—report p. 65/5).

Reason of all attacks on Bishop Dionisije and of present status of Diocese is: personal life of Bishop, which is without any moral, his negligence of his bishop's duty to the account of his transactions--private affairs." *(INCLOSURE NO. IV*—Stojan Lazarevich—report, p. 67/6).

For that reason, elimination of Bishop Dionisije from his post as Bishop of American and Canadian Diocese is CONDICIO SINE QVA NON—if it is desired and without it could not be taught not only unity of this Diocese with Serbian Orthodox Church but the Diocese as such." *(INCLOSURE NO. IV*—Stojan Lazarevich—report p. 71/8).

Similarly Momchilo Djuich is writing: He says: "Any decision of further connection of Dionisije with life of our Church means a destruction of this Diocese, and it is an immediate need to eliminate him, to wipe out him from the

life of our church, to remove him from stage of her life. Every decision and exit in further participation of Dionisije in our Diocese means her ruin." *(INCLOSURE NO. IV*—letter of Momchilo Djuich to V. Rev. Tomich of Sept. 25th, 1962 p. 109 and the same letter of Djuich to Metropolitan Damaskin of 1962 p. 101).

In one letter is a categorical demand the defrocking of Bishop Dionisije because "he horribly fell into drinking and sex. And he is doing it publicly, without any fear. Hundreds of events throughout the United States of America, where he traveled, could be documented, and every single case would be enough that from his head the crown should be taken off as well as cross, symbol of Lord Jesus Christ. Our people in talking among themselves are calling him—RASPUTIN. That is in short a true picture of his moral and his manly qualities. (*INCLOSURE NO. IV* —Letter of Metro

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politan Damaskinos, p. 153/11).

In his letter to Bishop Chrisostomos, Bishop Sava (Sarachevich) written from America: "Proofs are terrible. Only father Toza Radovanovich has a photostat of a letter, what is a complete proof for two guilts for which, unquestionably, should be deprived of rank." (*Enclosure No. IV*—quoted letter p. 51).

To the Bishop Dionisije were known all of his sins as well as they didn't remain unknown to the public. To cover it he started to imagine about a rank of Metropolitan. Instead of expecting a sentence he looked for reward and praise. On account of that in one letter it was said: "Plunged in sin he dared lately to blackmail the Holy Synod and to ask rank of a Metropolitan. We believe, that in place of that rank he is deserving to pool out from the field of Lord and to be replaced by some honest and

able person which could elevate our Diocese to its worthy high among other Christian Church in America." (*Enclosure No. IV*—Letter to Metropolitan Damaskinos, p. 153/11.)

Some priests "put ice on head that couldn't be crazy" because of problems caused by Bishop Dionisije (*Enclosure No. IV*—Vladimir Milinkovich—letter, p. 133,) some of them have terrible family tragedies (*Enclosure No. IV*—Association . . . p. 173/11) and some of them start to follow him in a chasm." Many priests in jurisdiction of Dionisije, scandalized by his life and work, fell also to a sinful life, even those for whom we could swear that ideals of priests will never betray. But to sustain in parish and in grace of Dionisije, one should try to get characteristics of a sinner." (*Enclosure No. IV*—Asociation . . . p. 173/11.)

Sometimes people tolerated excesses of Bishop Dionisije, covered them, hid his defects because of the dignity of the Church. But when he dared to put himself above the Church, some scandalized and plunged to deeper sins, the majority rose up against him and remained on correct line of Church. One priest describes it this way: "I thought that it would be more useful to pray to God for him, what I made until the present time until he threw a knife into the heart of its Mother Church, who gave to him bishop's rank but he unworthily had it and held it through many years. . . He practically was a demon in man's figure.

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It was importune to hide his sins, which he did openly not fearing God nor man. About his evil doing and satanism, books could be written and I am of the modest opinion that he overpassed Rasputin in prewar Russia. With him today are only those priests and monks which are of the same morals as he is and which are performing immoral things together, and it would be sure to stay with him and not to be with others of us." (*Enclosure*—Later sent documents—letter of Rev. Ljubisav Djurich of Minnesota of August 19th 1963 to Very Rev. Mladen Mladenovich, p. 368.

Another priest wrote in regard of Bishop Dionisije apostasy of Church this: "Here is a public conviction, that the Bishop himself put a needle deeply in health leg, and now is looking for help in vain." (*Enclosure No. IV*—Letter of Very Rev. Stavan Prostran, P. 99/3.)

From the next chapter will be seen how far in his spostasy and depotism and how much they are right those asking a justful sentence upon Canonical Disobedience of Bishop Dionisije unto the Church.

"Ane if he shall neglect to hear them, tell it unto the Church: but if he neglect to hear the Church, let him be unto thee as a heathen man and a publican." (St. Matthew: 18, 17)

In one of the earlier chapters the words of John Duchich were quoted about the moral blindness of Bishop Dionisije. In the following opinion of Duchich this is even more stressed: "There are people who are color-blind, but this one is moral-blind." (*Enclosed No. IV*—Letter of Rev. Mladen Trbuhovich, page 135.)

From everything which was said this far, in all chapters, about Bishop Dionisije it is clear of his moral and intellectual blindness. The correct conclusion would be this: "If he was a normal person, with the sense of responsibility, because of all these public and private charges against him, he would resign, regardless if he was right or wrong. But it looks like this does not concern him." (*Enclosed No. IV*—Letter of Very Rev. Stevan Prostran to Metropolitan Damaskin from October 21, 1962, page 85.)

Being that he is blind to everything inside of him and around him, Bishop Dionisije did not understand "The hour in which the Lord visited him."

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For years Bishop Dionisije was critisized and attacked by our people who are faithful to our church in America because of his immorality and materialism through our press, privately and officially they are writing to certain persons and to Holy Episcopal Synod. Holy Church acted according to Holy Gospel: "Moreover, if thy brother shall trespass against thee, go and tell him his fault between thee and him alone: if he shall hear thee, thou hast gained thy brother. But if he will not hear thee, then take with thee one or two more, that in the mouth of two or three witnesses every word may be established. And if he shall neglect to hear them, tell it unto the church: but if he neglect to hear the church, let him be unto thee as a heathen man and a publican." (St. Matthew: 18, 15-17.) Therefore, it is in the spirit of holy canons (74 canon of holy apostles) and the church-court rules (article 66) two times church has sent delegation of two bishops each time to Bishop Dionisije to get an answer from him in reference to all those charges against him. In both cases he avoided giving any answer on those charges against him, justifying his stand with an unjust reasons and blamed Holy Episcopal Synod and assembly, that they acted incorrectly unto him and that they are the ones who are blamed for "Split" of the Church and his "breaking away" from the Mother Church.

That Bishop Dionisije, in this instance like in all previous ones, does not speak the truth, one can see from the following: Rev. Pavle Zelich writes: "Dionisije raised the question a long time ago about the split of our Diocese from Mother Church. . .

That was somewhere before coming to America of today's Serbian Patriarch His Holiness Gehrman—before any priest could learn anything about his coming—it was announced on Priests Convention that we have to break away from Patriarchate . . . .

The Priests at Convention took this explanation for granted and unanimously voted for split. And then started an unexpected change: Bishop Dionisije, who till that time calmly listened to what was going on, suddenly shouted that he won't allow any split of our Diocese from Mother Serbian Church; and continued that he is accused and that he will defend himself: defend, defend and defend and will not simply hand over the Diocese to anybody." (*Enclosed No. IV*--Rev. Pavle Zelich—letter, page 73.)

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First of June, 1962, he announced about the split from the Mother Church, and later he withdrew that, since the Priest's Association took the opposite stand (enclosed No. IV-Rev. Vladimir Milinkovich-letter, page 131).

The stand of Bishop Dionisije was antagonistic even unto the first delegation of Serbian Orthodox Church in 1962, and the second delegation in 1963. So, in "Canadian Srbobran" . . . he wrote another article in which he clearly announces the split in our Church if his satanic wishes and ambitions are not satisfied." (enclosed No. IV-Rev. Momcilo Djuich-letter, page 105). Again in "Canadian Srbobran" (No. 478 from Sept. 20, 1962), under the heading: "Coming of Patriarchate's Delegation" Bishop Dionisije takes an antagonistic stand toward the Serbian orthodox church. (inclosed No. IV—Momcilo Djuich-letter, page 121).

When the delegation came to America, those of the Serbian Orthodox Church, Sir Mitropolitan Damaskin and Sir Bishop Nikanor, Bishop Dionisije behaved before them "with sarcasm and calculation" (enclosed No. IV—Memo-

randum of Rev. Dusan Popovich, page 47/11). He had criticized all the bishops privately and publicly. Somewhere in his letters he recommends to people and the priests to greet them nicely, but verbally he used to give them quite the opposite orders and directions. Quite often he distributed leaflets against them; at the banquet in Chicago he held a provocative speech. He was bothered with the idea to run away the delegation: "With them to the airfield, in New York, and let 'em go to their Tito", he used to day. Andja Polich used to say that she hardly succeeded to bring the delegation to Los Angeles (enclosed No. IV—Momcilo Djuich-letter, Page 107).

After the receipt of the document (official letter) from Holy Episcopal Synod No. 1664/min. 188 from May 10, 1963, Bishop Dionisije have announced on May 25, 1963, in writing, to the priests and the people: "I do not feel guilty. . ., neither the orders I do not accept which are forbidding me to officiate the church services." (enclosed No. XVII-circular letter from May 1963, page 319).

The same he confirms in his letter No. 794 from June 3, 1963, which was sent to His Holiness Serbian Patriarch Gehrman and to the bishops in which he says: "Having confirmed the receipt of the letter No. 1664/min. 188 from May 10, this year, I am stating: I do not recognize the decision of the Holy episcopal assembly and the synod about the division of this one Diocese into three new dioceses, neither do I recognize my suspension

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and the rights of governing the Diocese, neither shall I transfer the duty until the Diocesan Church-peoples Assembly meets, since the mentioned decisions are unconstitutional and against the law." (inclosed No. XVIII-letter of Bishop Dionisije, page 321).

At the Meeting of the Diocesan Council-Plenum of the Serbian Orthodox Diocese of America and Canada from June 6, 1963, Sir Bishop Dionisije had to say this: "Considering that the judgment against me is unlawful and unjust I am stating: that I do not recognize the same until the necessary investigation is conducted in this respect and until all the charges are sent to me for a legitimate answer. I have not refused even one up to date; I have requested this several times from Belgrade." (enclosed No. XVIII—written statement of Bishop Dionisije, page 327).

Bishop Dionisije goes even further in his disobedience to the Church. On "Vidovdan" June 28, this year, he wrote a circular letter, in which he is calling on breaking away from the Mother Church and to all church congregations in Diocese with a proclamation: "I will accept under the jurisdiction in this Diocese all the church congregations from all over the world which do not wish to stay under the subordination of Belgrade" . . . (enclosed No. XIX—circular letter of Bishop Dionisije on "Vidovdan" in Libertyville, entitled: The American-Canadian-Serbian Triumvirate, page 331)

Though the decision of suspension and the order by which he may not conduct the church services was not the punishment of Bishop Dionisije but the preventive measure foreseen by the Constitution of Serbian Orthodox Church, Dionisije is calling this "a punishment." Then he is requesting for himself the necessary investigation, and when the Holy Bishop's Synod by their decision No. 1986/min. 265 of 1963, has ordered to their graces bishops Hrisostom and Visarion to execute "The necessary investigation" against the accused Bishop Dionisije, he announces in his letter in St. Sava Monastery on "Vidovdan" 1963: "I will not go to any hearings or talks with this commission . . .

I'll take the advantage . . . the rights of contact by way of correspondence . . . I cannot transfer the duty before the Church-peoples' assembly meets, and until the people say their judgment" . . . (enclosed No. II, page 23).

Bishop Dionisije tried to boycott the work of this delegation of Serbian church in Jugoslavia. In connection of this he had issued on June 29, 1963, an order to V. Rev. Simeon Crozdanovich in Shadeland, which reads: "Yesterday has arrived a new commission from Belgrade-two

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they . . . cannot be neither in the Monastery nor on Shadeland . . . they will be searching for a place in which the Rev. Stevan Lastivica would take his monastic vows, after which he would be elevated to the rank of a bishop.

I order that he may not be ordained on Shadeland. Therefore, if they come there and request this, you will not open the Chapel, neither to receive them whatsoever." (enclosed No. XXI—photostat of the letter of Bishop Dionisije as of June 29, 1963, page 347).

Bishop Dionisije could find a little better place to meet with the bishops Hrisostom and Visarion than the Indian Club in Libertyville. By this, perhaps, he wanted to humiliate this church delegation from Belgrade and once more even before them to prove the correctness of the charges against him and the fact that he enjoys very much and quite often is visiting in the places like this one. At the meeting in this Club on July 5, 1963, Bishop Dionisije stated: "that he stands by all of his proclamations and announcements which have been made before and after the bishop's and synod's decisions". Understood, neither this one he cared to sign. (enclosed No. III-minutes written in Indian Club in Libertyville, on July 5, 1963, page 25).

Since the time of his suspension, Bishop Dionisije continued to execute various decisions, administrative decisions in Diocese, which were unlawful. He had relinquished

on June 7, 1963, from his duty the bishop's Aid the Archimandrite Firmilian, and on June 12 he relinquished from his duty as bishop's Aid the V. Rev. Milan Brkich, from Milwaukee, also the Rev. Dusan Klipa, from Clairton. In continuation of his decision he says: "I am calling on all Serbian priests and on all church-school congregations not to listen of any orders of the new administrators: of archimandrite Firmilian, of archimandrite Gregory Udicki, or of Rev. Stefan Lastavica, but in all their needs and questions they should turn to our Diocese, diocesan office and to us who with the Diocesan Executive Board and Church Court are governing the Diocesan matters." (enclosed No. XX—letter of Bishop Dionisije sent to Archimandrite Firmilian and proclamation of Bishop Dionisije on June 12, 1963, page 337 and 345).

Bishop Dionisije had refused to meet again with bishop Hrisostom on July 29, this year, on which, V. Rev. Branko Kusonjich, from Cleveland insisted. (enclosed XXIII—statement of proto-deacon Bozidar Tripkovich as of August 9, 1963, page 351).

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Bishop Dionisije began to accept clergy from other dioceses and to make appointments. In a letter to Rev. Dusan Petrovich from July 1963, he says: "investigating your case, and having found that you were unjustly forbidden to perform the religious services . . ., and since I do not recognize the judgment against me, which was brought without any previous investigation and hearing, like in your case, therefore I am accepting you under the jurisdiction of the Serbian Orthodox American Diocese, giving you permission to perform religious services of which you were unustly deprived, and I am sending you for temporary to St. Nikolas parish in Indianapolis, Indiana" . . . (later

arrived material—two copies of Dionisije's letter to Rev. Dusan Petrovich from July 30, 1963, page 363-365).

It is in order to notice, here, an official statement and announcement of the Diocesan Executive Board of the Serbian Orthodox Diocese of America and Canada from their meeting as of April 17, 1963, where among other things the following is read: "In connection of some talks about the built of our Bishop Sir Dionisije and suppositions about some court hearings and his replacement, we are announcing that this is under the jurisdiction of the Holy episcopal synod and holy episcopal assembly of our holy Church in Belgrade, which will in connection with the subject matter make their resolutions and decisions." Following are the signatures of the members with the signature of Bishop Dionisije as the First.

It would be a miracle if Bishop Dionisije would stick to his statement. That is not the case. It is very typical of his own to break his work and everything what makes one a man. His activities after the suspension from his duty which includes that he may not conduct religious services, are fully in contradiction with his quoted statement.

To Bishop Dionisije was sent the decision from the Holy episcopal assembly EA No. 42/min. 2 from July 27, 1963, which reads: "The Holy episcopal Assembly of the Serbian Orthodox church had found, that His Grace Bishop Dionisije Milivojevich broke his episcopal vows and by that lost the rights from article 104, point (A) and (G) of the constitution of the Serbian Orthodox Church foreseen for the position of the Diocesan bishop, and on the basis of article III of the Constitution of Serbian Orthodox Church, is relieved from his duty as a diocesan bishop, and the Middle-western-American Diocese is now VACANT." (later arrived

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material, page 378).

After this decision Bishop Dionisije officiated the matin service on the St. Ilija Day, on August 2, this year, in St. Sava Monastery, in Libertyville, and by that he broke the decision which forbids him to conduct the church services. (enclosed No. XXII-photograph of Bishop Dionisije with "epitrahilj" taken on August 2, 1963, by Danilo Simich, from Chicago, and his statement and of Rev. deacon Bozidar Tripkovich, who participated on that day on the matin service in Monastery, in Libertyville, page 349).

Also, though forbidden to conduct the services, Bishop Dionisije officiated and have consecrated the foundation for the erection of a new church building in Sudbury, Ont., Canada,—prove: a photograph with Bishop Dionisije in vestments during the consecration of foundation, published in newspaper: "The Sudbury Star" from October 7, 1963.

Bishop Stefan writes from America: "Bishop Dionisije more and more goes into the chism. He is very active in organizing of his "church" . . . As an example of his organizing activities enclosed is the photostat copy of the bid for the election of a permanent priest to St. Louis, in Western-American Diocese, signed by Bishop Dionisije", . . . (Later arrived documents—document of bishop Stefan of Eastern-American and Canadian Diocese D No. 125/63 to Holy episcopal Synod of the Serbian Orthodox Church and the photocopy of the bid from November 6, 1963, page 369-372).

Then the pamphlet which appeared under the heading: "New Bishops: Stefan, Firmilian and Gregory are uncanonically elected and they are lacking the power of the Holy Spirit" . . . pamphlet was not signed, but it leaves no doubt that was signed by Bishop Dionisije. (Later arrived documents-Bishop Dionisije: New Bishops . . . St. Sava Monastery-Libertville, Ill. September 20, 1963, page 374).

After the sufficiently gathered evidence in these material, by which the accused is charged, and suspended and relieved from his duty as an active diocesan Bishop Dionisije Milivojevich, one can see clearly all the transgressions of Bishop Dionisije, and that every one of these transgressions are severely punishable.

In every one of these headings there are so many canonical offenses of Bishop Dionisije that they require the loss of his Bishop's rank.

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If he is immoral, psychic, which seems to be the truth, he should be disrobed, again, because of his ill behavior which has a very damaging influence on church and its other Serbian bishops.

Explanation and the motion for punishment.

In accordance of Article 3, By-laws and procedures of church courts of Serbian Orthodox Church, I am accusing as church prosecutor the guilty Bishop Dionisije for all church offenses here presented and on the basis of the material given to me on the disposal of the Holy Episcopal Synod, and which offenses were committed by Bishop Dionisije from the time of his arrival to America and Canada up to date, and which offenses are canonically questionable.

Our Church teaches: "A Bishop then must be blameless, vigilant, sober, of good behavior, given to hospitality, apt to teach; not given to wine, no striker, not greedy of filthy lucre; but patient, not a brawler, not covetous; one that ruleth well his own house . . ., for if a man know not how to rule his own house, how shall he take care of the church of God? (I Timothy 3: 2-5).

The guilty Bishop Dionisije has not got one of these given qualities, which are to advantage to a Bishop of Christ's Church.

I am accusing Bishop Dionisije who through those committed offenses broke his episcopal vows instead of safeguarding the canons of Orthodox Church. I am accusing him for breaking his monastic vows given in his promises: virginity, poverty and obedience to the Church.

Under the following titles of accusation: *Bishop Dionisije and Women; Materialism of Bishop Dionisije and Canonic Disobedience of Bishop Dionisije unto the Church* there is sufficient proof of Bishop Dionisije's guilts in connection of the breaking of his episcopal and monastic vows, which is making him to lose his bishop's rank. Therefore I am accusing him and asking that he should be disrobed as a bishop and in accordance: of By-law 2 of the VI Ecumenical Council; 25 apostolic rule; by-law 3, of St. Basil the Great; 14 and 15 rule the Council of Constantinople, and the articles 10, 15, 17 and 23 of by-laws and procedures for church courts of the Serbian Orthodox Church.

I am accusing Bishop Dionisije for not coming to the hearing when he was asked for by the church delegates, which is seen from the title:

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Canonic Disobedience of Bishop Dionisije Unto the Church and in accordance of 74 apostolic rule, and 15 rule of IV local Council in Antioch and the article 66 by-laws and procedures of the church courts of the Serbian Orthodox Church I am asking that he is disrobed of his episcopal rank.

I am accusing Bishop Dionisije because of his activities against the interests of the Serbian Orthodox Church and who does not recognize its leader, which can be seen from the title of his disobedience and I am asking that he must be disrobed in accordance of 34 apostolic rule, and the article 49 of by-laws and the procedures for church courts of the Serbian Orthodox Church.

I am accusing Bishop Dionisije who is conducting religious services in other diocese and accepting the priests who are forbidden to perform the church services and appointing them in other dioceses on the parishes, which is seen from the title about the *Canonic Disobedience of Bishop Dionisije unto the Church,* and I am asking that he is disrobed of the episcopal rank in accordance of 15 and 35 apostolic rules; the 15 rule of the I Ecumenical Council; the 17 rule of the Council in Trula, the 3 and 16 rules of the Council in Antioch, and the article 18 of by-laws and procedures for church courts of the Serbian Orthodox Church.

I am accusing Bishop Dionisije for the material mismanagement of the church property on Shadeland and of hiding the donations in dollars to the Serbian Orthodox Church, which is seen from the title: *Materialism of Bishop Dionisije* and I am asking that he is disrobed from his episcopal rank in accordance of 26 rule of the IV Ecumenical Council; and the 11 rule of the VII Ecumenical Council: the 16 rule of the Council in Carthaga, and the articles 22 and 32 of the by-laws and procedures for church courts of the Serbian Orthodox Church.

From the Title: *Bishop Dionisije As Intrigurer* one can see how much he cared about his priests. I am accusing him for this carelessness and I am asking that he is disrobed in accordance of 58 and 59 apostolic rules.

Under the heading: *A Moral Image of the Suspended Bishop Dionisije Milivojevich* one can see that the Bishop Dionisije is a habitual drinker, adulterer and enjoys other vices, therefore I am accusing him and asking that he is disrobed of his rank, in accordance of 42 apostolic rule.

From the heading: *Dionisije's Heterodoxy* one can see that Bishop

Page 37.

Dionisije used to ordain the persons who are married to the persons who do not fit in their profession and because of that I am accusing him and asking that he is disrobed in accordance of 18 apostolic rule.

Presenting these charges to the Holy Episcopal Synod against the suspended and from duty relieved but still active diocesan Bishop Dionisije Milivojevich, I am remaining with all my demands that the same should be disrobed from his episcopal rank, and if he continues in his disobedience to the decisions of the Holy Episcopal Assembly and Synod he should be excommunicated from the Church in accordance of the articles 15 and 18 of by-laws and procedures for church courts of the Serbian Orthodox Church.

Obedient to Holy Episcopal Synod
October 16, 1963
Kraljevo (Bishop of Zion)
VASILIJE

PLAINTIFF'S EXHIBIT 17
COMMUNIQUE

TO ALL THE CLERGY, CHURCH-SCHOOL CONGREGATIONS AND ALL SERBIANS OF AMERICA AND CANADA:

According to the decision of the Holy Heirarchical Synod, No. 1986, Minutes 265 of the 13th of June, 1963, and upon the invitation of the plenum of the Diocese, an Investigating Commission of the Holy Hierarchical Synod of the Serbian Orthodox Church arrived in the United States of America on June 28, 1963, to carry out the investigative proceedings brought forth against His Grace Bishop Mr. Dionisije.

Upon its arrival, the Commission informed Bishop Dionisije by letter of its arrival and scheduled a meeting with him at the Monastery of St. Sava, at the seat of the Diocese in Libertville for July 5th, 1963, at which place it arrived at 11:00 A.M.

His Grace Bishop Mr. Dionisije refused to accept the Commission in the Bishop's residence and suggested that they meet in the local restaurant "Indian Club" for a discussion. Although it was surprised by this kind of welcome and procedure, the Commission accepted this.

Due to the fact that about 15 persons, consisting of clergymen and laymen were in the company of Bishop Mr. Dionisije, the Investigating Commission requested that these persons not be present at the discussions.

Thereupon, the Commission immediately invited Bishop Mr. Dionisije to present himself at a hearing, which invitation Bishop Mr. Dionisije declined, stating that he stands behind all his circulars and statements issued both before and after receipt of the decisions of the Holy Heirarchical Assembly and Synod, and that he does not accept the decisions of the Assembly and Synod.

Due to this action and statement by His Grace Bishop Mr. Dionisije, it is absolutely confirmed that he trampled on his hierarchical oath and that he renounced obedience to higher Church Authorities, thereby committing, among others, violations of Articles 10, 15, 17, Rules and Procedures for Church Tribunals (Ecclesiastical Courts) of the Serbian Orthodox Church, which violations carry with them the greatest church punishment of stripping of Episcopal rank and excommunication from the Church community. Therefore, we call upon all clergymen, all Church-School Congregations and all the faithful Serbian sons and daughters of the Orthodox Dioceses: Middle-American, Eastern-American and Canadian and Western

American, not to subordinate themselves under any circumstances to Bishop Dionisije, who is suspended by the canonical decision of the Holy Heirarchical Assembly and Synod, but to submit themselves in everything to the canonical temporary administrators; Archimandrite Dr. Firmilian Ocokoljich, Archimandrite Gregory Udicki, and Protosindjel Stephan Lastavica who will administrate all Church affairs in accord with the standing Church Rules and Canons.

With God's Blessings,

(Signed) Rt.Rev. Chrysostom, Bishop of Branicavo

(Signed) Rt.Rev.Visarion, Bishop of Banat

6 July 1963

Milwaukee, Wisconsin

PLAINTIFF'S EXHIBIT 18

of The

SERBIAN ORTHODOX CHURCH

Number 3488

November 12th—1963 year

in BELGRADE

THE CONFIRMATION

The Holy Bishop's Synod is confirming by this the follows:

1. That the Holy Bishop's Assembly of the Serbian Orthodox Church by its decision ASNo.20 and 21/minute 77 of may 10th 1963, and in conformity of Art. 16 of Constitution of the Serbian orthodox church, from than Diocese in the United States of North America and Canada, FORMED THE THREE new dioceses as:

Eastern American and Canadian,
Meadle Western American and
Western American.

2. That on the basis of the same decision of the Holy Bishop's Assembly, His Grace than Bishop of the diocese

for the United States of North America and Canada, is remaining further, Bishop Dionisije, as Bishop of the newly created Meadle Western American dioces with its seat in Libertyville.

3. That in fulfilling the decision of the Holy Bishop's Assembly ASNo.20 and 21/Minute 77 of may 10th 1963, The Holy Bishop's Synod by its own decision No. 1664/ Minute 188 of may 10th 1963 year ordered The initiation of Due Process against His Grace Lord Dionisije Milivojevich, The Meadle Western American Bishop, according the charges aaginst him, suspending him of priestly-performances with a cutting to one half of his salary and releasing him from the governing of the Diocese until his guilt is investigated and judged.

His Grace Bishop Lord Dionisije was notified about it and invited that the duty of the governing of the diocese, entrusted to him (MEADLE WESTERN AMERICAN), to submit to its new appointed administrator Dr. Firmilijan Ocokoljich, his episcopal deputy and parish priest of Serbian orthodox church in Pittsburgh.

4. Since His Grace Bishop Lord Dionisije is not submitted to the mentioned decisions of his higher proper authority, and in the meantime, since he did and other legal and canonical guiltiness, The Holy Bishop's Assembly on the basis of Artical 111 of the Constitution of The Serbian orthodox church, by its decision AS No. 42/minute 2 of july 27 of 1963, released him of duty of diocesan Bishop and the Meadle Western American diocese declared vacant.

5. That the Holy Bishop's Assembly by its decision of AS No. 43/minute 2 of july 27—1963 has elected the Very Rev. Archmandrite Dr. Firmilijan Ocokoljich as the Bishop of vacant Meadle Western American diocese with its seat

in Libertyville, Illinois—U.S.A., to whom his Grace Bishop Lord Dionisije is obliged, as it was previously decided, to give up the diocese as to his legal successor.

The main Secretary
of The Holy Bishop's Synod
Mladen Mladenovich
archpriest, signed.

This translation done and subscribed personaly
by The Rt.Rev.Bishop Dionisije
The Rt. Rev. Bishop Dionisije

Subscribed and Sworn to before me this 5 day of *October* 1967.

Bettye Lukenbill
Bettye Lukenbill
Notary Public

PLAINTIFF'S EXHIBIT 19
November 18, 1963
Monastery of St. Sava
Libertyville, Illinois

To:
The Holy Bishop's Synod of
the Serbian Eastern Orthodox Church
Belgrade, Yugoslavia
Your Holiness,

This is to acknowledge receipt of the official document of the Holy Bishops' Synod no.3215/min.509, dated Oct. 18, 1963, with attached INDICTMENT of the Church-Court Prosecutor, His Grace Bishop of Zica Mister Evasilije. This I received on November 3, 1963, and the official document itself arrived at the Libertyville post office on Oct. 31, 1963. The Indictment is written on a typewriter, on 38 typed pages.

As the material in question was quite abundant, and God's and people's justice foresee and bid, it was necessary for me to know it in details before my replying to it and day of hearing and my answer to the indictment, I kindly request the Holy Bishops' Synod:

1.—To allow me an extended term (for my reply) to 6 months (180 days), counting from Dec. 1, 1963.

The Rule 19 of the Carthagene Assembly, mentioned by the Holy Bishops' Synod, equally relates to the day of hearing and the one of the trial, and the time of reply, at the same time foreseeing extension of the term as well. This rule supposed that an accused Bishop should be at least in the same state, on its territory; and I do not only live in another state but another continent.

The Serbian Eastern Orthodox Church Court Procedure, paragraph 109, foresees, flexibility, moving of terms by the competent authority; and I do not deny the competence of the Holy Bishops' Assembly and Synod; and the Holy Bishops' Synod can—if wishes—to allow me the required term. Thus, taking my rank away from me in a planned way could at least be covered by some meeting of a requirement of accused Bishop Dionisije.

Besides, two weeks ago, I had a traffic accident (automobile crashed) and my spine is hurt, and I have to get cured. I have doctor's certificate to prove that, and also X-ray films, if you do not believe me. When I recover a little so that I can walk a little better—and I need for purpose of making my defense to visit many places O I shall give my detailed reply to the Indictment received.

2.—On the ground of my legal right, to paragraph 81 of the old Rules for Courts as well as paragraph 67, item 4 of the new Rules (Procedures), I require all the reports, complaints and denunciations to be sent to me

copied and verified, all that is mentioned in my Indictment. The expenses of the copying I shall personally bear in conformity with the above paragraph of the Procedure.

I authorize three priests Mr. Kosta Lukovic, Dusan Vasic and Milisav D. Protic to carry out the transcribing in question. Attached hereto please find my personal Power of Attorney which you kindly hand over to them.

In case they refuse to do so because of various reasons, I shall find somebody else to do so, and this can be accomplished in the Holy Bishops' Synod Office, provided that during the transcribing neither a line nor a word should be omitted. In case the Holy Bishops' Synod Office performs the copying I will undertake all expenses, too.

Truly
Bishop Dionisije
(signed)

PLAINTIFFS' EXHIBIT 20

HOLY SYNOD OF BISHOPS
OF THE SERBIAN ORTHODOX CHURCH
3676/minutes 647
December 10, 1963
Belgrade

The Holy Synod of Bishops of the Serbian Orthodox Church as the court authority in the penal case of His Grace, Bishop Dionisy Milivojevich in its session evaluated the petition of the accused Bishop Dionisy to prolong the time from one month to six months for his answer to the list of charges of the church court prosecutor and that the copies of the accusations named in the list of charges should be sent to him, and after evaluating the petition.

DECIDES:

1. In accordance with Canon No. 19 of the Council of Carthage the time is extended one more month to the accused Bishop Dionisy Milivojevich to present to the Holy Synod of Bishops his written answer to the received list of charges with the understanding that this extension should be considered from the date of the receipt of this decision.

2. The petition of the accused, Bishop Sir Dionisy Milivojevich that the copies of the proving material of the charges which are cited in the list of charges received by him, can not be granted, the reason being that there is nothing in existence of canonical or any other rules of the law, inasmuch as the charges already given to him contain the description of his penal offenses according to the time, place and the manner in which they were committed as well as the proofs for the same.

Against this decision, there is no place for appeal.

From the session of the court tribunal of the Holy Synod of Bishops on December 10, 1963, No. 3676, Minutes No. 647, in Belgrade.

For the President
of the Holy Synod of Bishops,
Member, Bishop of TIMOK
Emilian

His Grace
Sir Dionisy, Bishop
St. Sava Monestery,
Libertyville, Illinois

PLAINTIFF'S EXHIBIT 21

JUDGMENT

OF THE HOLY EPISCOPAL COUNCIL OF THE SERBIAN ORTHODOX CHURCH WITHIN WHOSE JURISDICTION IT IS TO JUDGE THE OFFENSES OF BISHOP DIONISIJE MILIVOJEVICH FROM LIBERTYVILLE, U.S.A. WHO IS INDICTED BY VASILIJE, BISHOP OF ZICA, IN HIS OFFICIAL CAPACITY AS THE PROFESSOR OF THE SERBIAN ORTHODOX CHURCH

THE FOLLOWING SAT IN JUDGMENT:

GERMAN, Serbian Patriarch, Presiding

MEMBERS:

Damaskin, Metropolitan of Zagreb
Nektarije, Metropolitan of Dabro-Bosnia
Danilo, Metropolitan of Montenegro and the Costal Region
Emilijan, Bishop of Timok
Jovan, Bishop of Nis
Valerijan, Bishop of Sumadija
Makarije, Bishop of Srem
Nikanor, Bishop of Backa
Vasilije, Bishop of Zica
Hrizostom, Bishop of Branicevo
Visarion, Bishop of Banat
Emilijan, Bishop of Slavonia
Longin, Bishop of Zvornik-Tuzla
Simeo, Bishop of Gornji Karlovac
Vladislav, Bishop of Zahum-Hercegovina
Pavle, Bishop of Ras-Prizren
Andrej, Bishop of Banja Luka
Stefan, Bishop of Dalmatia
Jovan, Bishop of Sabac-Valjevo

I

The prosecutor of the Serbian Orthodox Church, with his indictment of October 16th, 1963, together with a supplement to the indictment, of March 5th, 1964, indicted Bishop Dionisije Milivojevich for the following ecclesiastical-canonical transgressions:

For breaking his episcopal oath and for refusing to submit to the decisions of the highest Church authorities—the Holy Episcopal Council and Synod of the Serbian Orthodox Church;

For his refusal to participate orally and directly in an investigation before the Investigating Committee of the Holy Episcopal Synod, concerning the charges submitted against him;

For officiating in Church ceremonies and for performing the duties of diocesan bishop after having been indicted and suspended from the performance of Church ceremonies, and relieved of the duties of diocesan bishop;

For accepting clerics who had no canonical release, as well as persons who were under suspension from the performance of Church ceremonies, and for entrusting them with parochial duties;

For committing wrong-doings of a material nature and for conducting himself in a manner unbecoming priestly rank and position;

For ordaining and bestowing ecclesiastical ranks of honor on such persons who, according to the canons do not possess the necessary qualifications for ordination; and

For proclaiming the Serbian Orthodox Diocese of America and Canada fully autonomous and separating it from the mother, Serbian Orthodox Church, at the so-called "Church National Assembly", held November 13th and 14th, 1963.

For these offenses, the prosecutor for the Serbian Orthodox Church asked that Bishop Dionisije Milivojevich be divested of both his episcopal and monastic ranks.

II

Upon hearing the Indictment of the prosecutor for the Serbian Orthodox Church, submitted against Bishop Dionisije Milivojevich, and upon study of all documents related to this criminal case, and upon completion of the presentation of evidence—on the basis of Canon 6 of the II Ecumenical Council; Canons 14 and 15 of the Antiochian Council; Canon 12 of the Council of Carthage; Articles 7 and 69, Points 27/B and 214a, Points 1, 2, 3, and 6 of the Constitution of the Serbian Orthodox Church and paragraphs 1, 2, 9 and 12 of the Constitution of the Serbian Orthodox Diocese of the United States of America and Canada, the Holy Episcopal Council of the Serbian Orthodox Church, as the judicial organ—

ADJUDGES:

Bishop Dionisije Milivojevich of Libertyville, U.S.A., born on July 13/26 year 1898 at Rabrovac, near Palanka of Smederevo, Yugoslavia; elected bishop on June 9/22, 1938; consecrated August 8/21, 1938; appointed by the decree of the Holy Episcopal Council of the Serbian Orthodox Church, EC, No. 218/Min. 81 of December 8th, 1939, as the Bishop of the Serbian Orthodox Diocese of America and Canada, with no previous conviction, be punished by *divestiture of his episcopal and monastic ranks* (Article 216, Points 8 and 10 of the Constitution of the Serbian Orthodox Church), and be removed from the roll of the hierarchy of the Serbian Orthodox Church, and be returned to the status of layman, under his secular name, Dragoljub Milivojevich, in consequence of his committed offenses:

a. Conduct unbecoming to the clerical rank and position, (42 Apostolic Canon; Constitution of the Serbian Orthodox Church, Article 214, Point 2; Regulations and Procedures for the Ecclesiastical Courts of the Serbian Orthodox Church (Penal Code), Articles 22, 25, and 29).

b. Non-performance, that is to say, negligent performance of official priestly duties and legal ordinances of the superior ecclesiastical authorities, discussion and critism of their orders and procedures,

(Apostolic Canon 74; Constitution of the Serbian Orthodox Church, Article 214, Points 3 and 6, and Regulations and Procedures for the Ecclesiastical Court of the Serbian Orthodox Church (Penal Code), Article 30, Points 9, 32, and 38).

and *c. Against the established order of the Church and for schism.*

(Apostolic Canons 25, 34, 35, and 74; Council of Trulo, 17; Constitution of the Serbian Orthodox Church, Article 214, Point 1; Regulations and Procedures for the Ecclesiastical Court of the Serbian Orthodox Church (Penal Code), Articles 10, 15, 17, 18, and 45).

DOCUMENTATION

Accusations against Bishop Dionisije Milivojevich, made by the clergy and faithful of the Diocese of America and Canada, have been arriving for years at the offices of the Holy Episcopal Synod of the Serbian Orthodox Church, the Patriarch and individual bishops. All these accusations mainly stated that Bishop Dionisije either lives a life unbecoming his rank and position or that Bishop Dionisije is engaged in various secular transactions which are not permitted by Church canons, such as buying and selling of houses, properties and land parcels. In order to examine the justification of these charges against Bishop Dionisije Milivojevich, the Holy Episcopal Council of the Serbian Orthodox Church, by its decision EC No. 19/Min. 50, 1962, recommended to the Holy Episcopal Synod of the Serbian Orthodox Church to send a delegation to the United States of America to investigate, among other things, these accusations against Bishop Dionisije. The

Holy Episcopal Synod proceeded according to this recommendation and, after having given them the necessary instructions, appointed the Metropolitan of Zagreb, Damaskin, and the Bishop of Backa, Nikanor, to visit the American Canadian Diocese. They remained in this visit from September 13th to November 29th, 1962, and during that time, they visited Bishop Dionisije and a great number of the Serbian Orthodox parishes and Church congregations, and they came into contact with many of the priests and faithful of the American-Canadian Diocese. By the oral and written reports submitted to the Holy Episcopal Council of the Serbian Orthodox Church by the Metropolitan of Zagreb, Damakin, and the Bishop of Backa, Nikanor, it is seen that the accusations against Bishop Dionisije Milivojevich were well-founded, and that they were reiterated by the priests and the faithful at public meetings of the priests and the faithful; either in writing or orally, either in the presence of Bishop Dionisije or the delegation itself. That is why the Holy Episcopal Council of the Serbian Orthodox Church, at its meeting of May 10th, 1963, by EC Nos. 20 and 21/Min. 77, ordered the Holy Synod of the Serbian Orthodox Church to institute penal court proceedings against Bishop Dionisije Milivojevich. The Holy Episcopal Synod of the Serbian Orthodox Church proceeded according to this order of the Holy Episcopal Council, and by its decision Syn. No. 1664/Min. 188, of May 10th, 1963, it indicted Bishop Dionisije Milivojevich and suspended him from the performance of priestly ceremonies with a reduction in his remunerations, until the judgment of the jurisdictional court. The Holy Episcopal Synod, by its decision Syn No. 1986/Min. 265, of July 13th, then sent to Bishop of Branicevo, Hrizostom, and the Bishop of Banat, Visarion, to the United States of America for the purpose of investigating the offenses of Bishop Dionisije Milivojevich.

As court investigators they were to examine the criminal responsibility of Bishop Dionisije, on the basis of the charges presented. They were also to collect evidence and hear Bishop Dionisije and witnesses, and upon completion of the investigative procedure, they were to turn the entire record of the penal case of Bishop Dionisije over to the Holy Episcopal Synod of the Serbian Orthodox Church, along with their report and recommendations. The court investigators, Bishop of Branicevo, Hrizostom, and Bishop of Banat, Visarion, proceeded according to the decision of the Holy Episcopal Synod, traveled to the United States of America, met with Bishop Dionisije Milivojevich on July 5th, 1963, not in the bishop's residence, but according to his wish, in a public place. They recorded his statement in the minutes of their meeting, which Bishop Dionisije later would not sign, even though he participated in their composition. During this meeting and hearing, Bishop Dionisije declared: that he will not answer no oral question, but wishes that all questions be put to him in writing; that he does not recognize the decision of the Holy Episcopal Council concerning the division of this diocese into three parts; that, according to this decision, he does not consider himself the bishop of the Middle-Western American Diocese, and that he stands behind all his circulars and announcements, made both before and after receipt of the decisions of the Council and Synod. Because of the fact that Bishop Dionisije refused to participate orally and directly in the investigation of his offenses, the Investigating Committee continued its work of collecting material evidence of his offenses, and recommended to the Holy Episcopal Synod of the Serbian Orthodox Church to call the Holy Episcopal Council of the Serbian Orthodox Church into special session, therein to elect as bishops, the Archimandrites: Firmilian Ocokojic and Gregory Udicki.

The Holy Episcopal Synod accepted the recommendation of the Investigating Committee and called the Holy Episcopal Council into special session on July 26th, 1963. At this session, the Holy Episcopal Council, at its meeting of July 27th, 1963, under EC No. 42/Min. 2, determined that Bishop Dionisije Milivojevich broke his episcopal oath, renounced obedience to his Church authority, and thereby lost the qualifications prescribed in Article 104, Constitution of the Serbian Orthodox Church, for the position of diocesan bishop. Therefore it relieved him of the duties of diocesan bishop and declared his Middle-Western American Diocese vacant. When it had accomplished its works, the Investigating Committee returned to (our) land and submitted its report concerning what had been done and concerning the gathering of material evidence of the offenses of Bishop Dionisije Milivojevich.

III

EVIDENCE against Bishop Dionisije Milivojevich for the offense—a) Conduct not becoming the priestly rank and position:

1. *Rev. Dushan Popovich, parish priest of Chicago,* asserts: that when he entered the United States of America, that is to say Chicago, he noticed with great surprise, that there reigned among the people there a very bad opinion about Bishop Dionisije; that it is being *openly said* that Bishop Dionisije has relations with Milka Suka of Libertyville, and that he read a letter of *Protopriest Milan Rakich of St. Louis,* stating that one day, *Bishop Dionisije made rude advances toward his parishioner Ann,* who had brought her children to the children's camp *at Shadeland.*

2. *Ljubisav Djurich, priest of St. Paul, Minnesota, asserts:* that Bishop *Dionisije made advances at many women;* that on the eve of Pentecost, 1953, *he took him to*

a hotel to sleep; that at that time, Bishop *Dionisije requested that he find him a young woman, but only the kind that can keep a secret, and that he had then said he cannot live without women;*

3. *Vladimir Milinkovich, priest of Indianapolis,* asserts: that Bishop *Dionisije asked him and his wife, Ljubica,* on *April 5th, 1962, about his parishioner Evelyn Petrovich, and requested that they talk her into going to California with him, for it would not be "bad" for her if she did;*

4. *Stevan Prostran,* Protopriest of Joliet, Illinois, asserts: that the relationship of Bishop Dionisije towards the female set falls in (the category) of sexual criminality; that Bishop Dionisije once said to his daughter-in-law: you know, my lady, my backside has become so hardened that it no longer feels blows; and that his parishioner, Mile Radakovich, former president of the Serbian National Federation, complained that Bishop Dionisije made advances toward his daughter Mary;

5. Dr. Dushan Silasky, attorney, former legal counsel for the diocese, wrote in the newspaper "Jedinstvo" (Unity); that Bishop Dionisije is the most unworthy and most shameless personality that ever held the position of diocesan bishop in the history of the Serbian Orthodox Church; that the business transactions of Bishop Dionisije have become intolerable and that they have no connection with Church matters; that it cannot be expected that the bishop's intrusions on the sanctity of the family institution, his unceasing caressing of women and girls will forever remain under cover, un-noticed and concealed;

6. Slavoljub Radovich, a former officer of the King's Guard, of Chicago, asserts: that he saw a happy and laughing Bishop Dionisije in the saloon of Sreten Gajich of Chicago; that in the presence of Mrs. Gajich, he flirted with Mrs. Dimitrijevich, touched her with his hands about the

face and back; that he met with Mrs. Dimitrijevich in the Gajich home; that he committed many disgraceful and shameful acts with the female set, among which is included his public scandal with Miss Rada Milentijevich. She came as a student from Yugoslavia to America to be married, but this was spoiled by Bishop Dionisije; that Bishop Dionisije bought an automobile for Rada Milentijevich and gave her money to open a hotel in Paris;

7. Stoyanka, the wife of the priest Radoslav Kovacevich, of Indiana Harbor, asserts: that on November 14th, 1960, Bishop Dionisije squeezed her hand; gazed at her with a fixed look; told her not to bear so many children, that there exist means against conception, and described the methods of their use;

8. Stoyan Lazarevich, a musicologist of Chicago, asserts: that he saw Miss Rada Milentijevich lives at the Monastery of St. Sava, Libertyville, and that she had a new car which, it is asserted, was bought for her by Bishop Dionisije;

9. Mary Drito of Springboro, asserts: that she is the first neighbor to the Church property at Shadeland; that she visited Bishop Dionisije and met him on August 12th, 1961; that a day or two later, without any notice, he paid her a visit; that during this visit he had made amorous approaches to her which shocked her, and that he tried to molest her, but that she succeeded in resisting and escaped from her home;

10. *Protopriest Emilijan Glocar,* parish priest of Akron, asserts: that Bishop Dionisije made advances toward his wife, Bosiljka; that she complained, and that she was ashamed at what the bishop was attempting prior to a worship service, and pleaded with him not to leave her alone with Bishop Dionisije;

11. *Dushan Popovich,* parish priest of Chicago, asserts: that Bishop Dionisije bought and sold houses and properties, and that when he bought the Church property at Shadeland, he first bought it on his name, then later sold it to the American-Canadian Diocese;

12. On June 8th, 1962, the Association of Theologians of America, in their presentations, directed to the Patriarch, assert: that Bishop Dionisije bought the Church property at Shadeland for himself, then later sold it to the American-Canadian Diocese for a far greater sum.

IV

EVIDENCE against Bishop Dionisije for the offense—b) Non-performance, that is to say, negligent performance of official priestly duties and legal ordinances of the superior ecclesiastical authorities, discussion and criticism of their orders and procedures:

1. The newspaper, "Slobodna Rec", in 1944 announced that Bishop Dionisije, in opposition to canon law, decorated Protosingelos Danilo Kozomora, parish priest of Clairton with the rank of Archimandrite, even though he knew that he, as a monk, contracted a marriage and transgressed the monastic vow of chastity;

2. From the statement of Abbot Mitrofan Kresojevich, parish priest of Cincinnati, it is seen that Abbot Mitrofan was convicted by the civil court in Arizona on the list of December, 1953, as a homosexual. But this did not prevent Bishop Dionisije, three months later, from promoting him first to the rank of Protosingelos and then Abbot, and giving him a parish, even though according to canon law, he was not allowed to do this;

3. Protopriest Milan Brkich, parish priest of Milwaukee, asserts: that Bishop Dionisije, in opposition to canon law, ordained Dushan Vavich, a graduate seminarian, even though he warned him before the ordination that Dushan

Vavich is an epileptic and that he is under court investigation for arranging a lovers date with an eleven year old girl;

4. Raja Milinkovich of Lackawanna, asserts: that Bishop Dionisije ate lamb and drank hot whiskey early in the morning of the day of St. Mother Angelina, the 12th of August, 1957 or 1958, and that he served the Divine Liturgy that day;

5. The president and members of the Auditing Committee: Milan Radakovich, I. Bulatovich, Pavle Jerich, and Milan Zunich, assert: that they had determined at the time of the examination of the financial accounts of Shadeland, that 51 duplicate receipts were missing for the period from December 4th, 1961, to October 18th, 1962, when Bishop Dionisije personally managed the property; that the property is in debt and that the debt continually rises. On January 1st, 1962, it was $20,090.63 and on the 31st of December of the same year, it was $51,916.00. At the time of the examination of the financial accounts on the day of July 15th, 1963, the debt had risen to $73,208.97;

6. Trisha Simich of Cleveland, asserts: that Bishop Dionisije charged the church congregation of Cleveland 150 dollars for the approval of plans, and 150 dollars traveling expenses at the time of the blessing of the cornerstone for the new church in Cleveland, even though the traveling expenses from Libertyville to Cleveland and back do not exceed $30.00;

7. Sam Vignjevich, former president of the church congregation George in Pittsburgh, stated: that Bishop Dionisije requested to be paid traveling expenses in the amount of $100.00 for coming to Pittsburgh for the ordination of Milan Savich, a priest. Just before the Divine Liturgy itself, he requested $150.00 in cash, not by check, threatened not to enter the church until he was paid this sum, and it was then paid him;

8. Archimandrite Firmilian Ocokojich, presently the Bishop of the Middle-Western American Diocese, as former parish priest in New York, testified: that Bishop Dionisije charged $200.00 for the blessing of the iconostas in New York, and $200.00 for the blessing of the church in Elizabeth, New Jersey, which parish has only 30 homes. A month later, he charged that same congregation $200.00 for the ordination of the priest, Ilija Dajkovich; and

9. Vladimir Milinkovich, priest of Indianapolis, asserts: that Bishop Dionisije charged him $200.00 for his wedding.

V

EVIDENCE against Bishop Dionisije for the offense—
c) Against the established order of the Church and for schism:

1. From the declaration of Bishop Dionisije issued under the title "Important Announcement", Bishop Dionisije indicated that he will separate himself from the mother, Serbian Orthodox Church. He later withdrew this declaration because the Priest's Association in America took an opposing stand;

2. From a circular of Bishop Dionisije dated May 25th, 1963, it is seen that Bishop Dionisije sent a declaration to the clergy and the people, stating that he does not recognize the decision of the Holy Episcopal Synod of the Serbian Orthodox Church No. 1664/Min. 188, of the 10th of May, 1963, with which penal procedures had been instituted against him, and the suspension from the performance of priestly services, with a reduction in remunerations, was placed against him. Bishop Dionisije reiterated his refusal to recognize these decisions of the Holy Episcopal Synod in his Act No. 196, of the 3rd of June, 1963, which he directed to the Serbian Patriarch German, and in which he also wrote that he will not recognize the decision of the Holy Episcopal Council of the Serbian Orthodox Church under EC No. 20/Min. 77 of the 10th of May, 1963, concerning the division of the American-Canadian Diocese into three new dioceses: Eastern-American and Canadian, Middle-Western American and Western American, and the appointment of Administrators, until the decision of the Church National Assembly of the American-Canadian Diocese, and until all charges are presented to him for reply. Bishop Dionisije reiterated his disobedience of the decisions of the Holy Episcopal Council and Synod of the Serbian Orthodox Church at the meeting of the Diocesan Council—Plenum, June 6th, 1963. With his circular of June 28th, 1963, under the title "American-Canadian Serbian Triumvirate", Bishop Dionisije invited all the Serbian Orthodox Church Congregations throughout the world to place themselves under his protection, with this message: "I accept under the protection of this Diocese, all church congregations throughout the world, which do not wish to be subordinated to Belgrade". In another circular dated June 28th, 1963, beside requesting an investigation of his offenses, he stated: that he cannot attend any hearings or discussion with the Investigating Committee of the Holy Episcopal Synod of the Serbian Orthodox Church, but that he will make use of the right to be in contact with it through correspondence. On June 29th, 1963, he ordered Abbot Simeon Gvozdanovich at Shadeland not to receive the Investigating Committee at the Monastery of Shadeland nor to permit them to enter the chapel. Aside from the fact that he informed the clergy and the people in his circular that he will not come into direct contact with the Investigating Committee, Bishop Dionisije, on July 5th, 1963, met with it, suggesting the meeting take place not in the residence, but in a public place. In the presence of the Investigating Committee, he reiterated in

the record of minutes, his known statements that he will not obey the decision of the Holy Episcopal Council and Synod of the Serbian Orthodox Church concerning the institution of penal procedures against him, and concerning the division of the diocese; that he will reply to the Investigating Committee only on question presented in writing, and that he stands behind everything in his circulars and statements made both before and after the decisions of the Council and Synod.

He is translating into deeds all his statements, given in the circulars to the clergy and the people in his Act directed to the Serbian Patriarch and in the minutes of the Investigating Committee; that he will not obey the decisions of his highest superior Church authorities—the Holy Episcopal Council and Synod of the Serbian Ortohdox Church. Even though he has been relieved of his duties as diocesan bishop, Bishop Dionisije continues to work, and with his decision of July 7th, 1963, he relieves his Episcopal Surrogate, Archimandrite Firmilian Ocokoljich of his duties. On July 12th of the same year, he relieves the Vicar General, Proto-priest Dushan Klipa, parish priest of Clairton, of his duties. He receives Dushan Petrovich, priest and cleric of the Slavonian Diocese, without a canonical release and appoints him parish priest of the church of St. Nicholas in Indianapolis. He announces open competition for filling the vacancy of the parish in St. Louis. He invites the clergy and church congregations not to obey the orders of the administrators: Archimandrite Firmilian, Archimandrite Gregory, and Protopriest Stevan Lastavica, even though they were appointed by the Holy Episcopal Assembly. He invites them to turn to him and to his organs for all their needs. Also, even though he is under supension from performance of priestly ceremonies, Bishop Dionisije serves and performs the Church ceremonies. On

St. Elijah's day, August 2nd, 1963, he serves matins in the Monastery of St. Sava in Libertyville, and later he blesses the corner-stone for a new temple in Sudbury, Canada.

3. From the joint report of Bishops Stefan, Firmilian and Gergory, of August 26th, 1963, and from the resolution of the so-called X Church National Convention of August 8th, 1963, in Libertyville, it is seen that Bishop Dionisije presided over this Council and participated in bringing forth the Council's resoluton not to recognize the decisions of the Holy Episcopal Council and Synod of the Serbian Orthodox Church, concerning: the division of the American-Canadian Diocese into three new dioceses; his relief of duty as the diocesan bishop; the institution of procedures in the matter of his offenses; his suspension from the performance of priestly ceremonies, and the election and appointment of three new bishops. He requested that these decisions be withdrawn.

VI

1. From the joint report of Bishops Stefan, Firmilian, and Gregory of November 25th, 1963, No. 197, and from the decision of the so-called X Church National Convention held in Libertyville on November 13th, 1963, it is confirmed that Bishop Dionisije presides over the continuation of the work of this Convention on the 12th, 13th, and 14th of November, 1963. It is also confirmed that he participates in bringing forth decisions by which the Serbian Orthodox Diocese for the United States of America and Canada is proclaimed completely autonomous; that it will not as such, in the future accept any orders or decisions of the Patriarch, the Holy Episcopal Council and Synod of the Serbian Orthodox Church, up until the time they will be in a position to freely work and freely bring forth decisions, for they do this now under the pressure of the regime which is now in power in Yugoslavia. When this

government ceases to exist the same relations between this diocese and the Serbian Orthodox Patriarchate which existed before the Second World War will be reinstituted. The Diocesan Council and the Ecclesiastical Court are further empowered by a decision to seek the cooperation or help of any canonical Orthodox Church in the free world, in case of legal necessity, and with the purpose of ensuring the continuity of the legality of the Church and the unity of this Diocese, insofar as the hierarchial organization, that is to say, the reorganization of this Diocese will not have been by then carried out.

2. From the report of the Bishop of Eastern America and Canada, Stefan, No. 215, dated December 9th, 1963, and from the circular of Bishop Dionisije of the 8th of December, 1963, it is confirmed that the so-called X Church National Convention in Libertyville, on November 14th, 1963, elected Archimandrite Irinej Kovacevich bishop, and this his consecration was performed December 7th, 1963, by bishops of the self-named Ukranian Orthodox Church, Gregory and Genadije, whose canonicity is not yet recognized by the Conference of Orthodox Churches in America.

3. Bishop Dionisije, having earlier received the indictment of the court prosecutor, dated October 16th, 1963, he returned it to the Holy Episcopal Synod of the Serbian Orthodox Church, along with its decision syn. No. 3676 of the 10th of December, 1963. He returned it by his Act of the 25th of January, 1964, with the statement that he is returning it because the Holy Episcopal Synod did not grant him a six months time limit to write his answer to the indictment and the copies of the material evidence. By this action of his, Bishop Dionisije refused to continue further in the penal case being held against him.

VII

The offenses of Bishop Dionisije Milivojevich of Libertyville, U.S.A., are completely proven by the evidence presented in the documentation of this Judgment: that he conducted himself contrary to Church regulations, and in a manner unbecoming his rank and position; that he did not execute his duties with care; that he worked against the ordinances of his superior Church authorities; that he damaged the established order of the Church, separated himself from the Church and fell into schism. Therefore, the Holy Episcopal Council of the Serbian Orthodox Church, as an ecclesiastical organ, on the basis of Canons 6 of the Second Ecumenical Council; Canons 14 and 15 of the Antiochian Council; Canon 12 of the Council of Carthage; Articles 7 and 69, Point 27/B, and Article 214, Points 1, 2, 3, and 6 of the Constitution of the Serbian Orthodox Church, and Paragraphs 1, 2, 9, and 12, Constitution of the Serbian Orthodox Diocese of the United States of American and Canada, punished him with the punishment of Article 216, Points 8 and 10 of the Constitution of the Serbian Orthodox Church—divestiture of episcopal and monistic rank.

VII

The Court Prosecutor of the Serbian Orthodox Church, during the adjudication of the offenses of Bishop Dionisije, requested that the Holy Episcopal Council permit him to extend his indictment of the 16th of October, 1963, to include the offenses of Bishop Dionisije committed on the 13th and 14 of November, 1963, at the so-called X Church National Convention in Libertyville. These offenses came with the creation and declaration of the Serbian Orthodox Diocese of the United States of America as a diocese completely autonomous and separate from the Serbian Orthodox Church. They arise also from his granting consent

to create a non-canonical hierarchy outside the jurisdiction of the Serbian Orthodox Church in this way creating a schism in Her, through the non-canonical election of Archimandrite Irinej Kovacevich as bishop at an illegal Church National Convention and later through his consecration.

The Holy Episcopal Council of the Serbian Orthodox Church accepted this request of the Court Prosecutor and punished Bishop Dionisije for these offenses.

The supplementary portion of the indictment was not sent to the accused Bishop Dionisije, because with his Act of the 25th of January, 1964, he returned the indictment of the Court Prosecutor dated the 16th day of October, refused to answer it and refused to participate in further proceedings concerning his offenses. He did this because the Holy Episcopal Synod by its decision No. 3676/Min. 647, of the 10th of December, 1963, was unable to extend the time limit for writing an answer to the indictment to six months. According to the canons (Regulation 19 of the Council of Carthage), the time limit in an ordinary case is one month, and in a special case, two months. According to the Regulations and Procedures for the Ecclesiastical Courts of the Serbian Orthodox Church (Article 70), the time limit is only 14 days. The indicted Bishop Dionisije benefited from a two month time limit and did not answer the indictment, that is to say, he answered that he will not answer.

IX

The Holy Episcopal Synod of the Serbian Orthodox Church by its Act of the 25th of February, 1964, Syn. No. 357/Min. 78, informed the Holy Episcopal Council of the Serbian Orthodox Church, that regarding the confirmed gravity of the offenses committed by Bishop Dionisije

Milivojevich, it considers itself as having exhausted its authority as provided in Article 70, Point 35, of the Constitution of the Serbian Orthodox Church. Therefore, it brings the entire penal case of the indicted Bishop Dionisije before the Holy Episcopal Council with the recommendation that the Holy Episcopal Council bring forth a final judgment on it on the basis of Canon 6 of the Second Ecumenical Council; Canons 14 and 15 of the Council of Antioch; Canon 12 of the Council of Carthage; Articles 7 and 69, Point 27/B of the Constitution of the Serbian Orthodox Church. The procedure for judgment of a bishop is not sufficiently explained in our psotive Church legislation, and this procedure is sufficiently expounded on the canons of the Orthodox Church cited above.

The Holy Episcopal Council accepted this recommendation of the Holy Episcopal Synod, and on the basis of Canon 6 of the Second Ecumenical Council; Canons 14 and 15 of the Council of Antioch; Canon 12 of the Council of Carthage; and Articles 7 and 69, Point 27/B of the Constitution of the Serbian Orthodox Church, as the ecclesiastical organ, pronounced the final judgment concerning the offenses of Bishop Dionisije, as stated in the body of the judgment.

X

Being that this judgment was pronounced unanimously by all the members of the Holy Episcopal Council of the Serbian Orthodox Church, therefore, according to the 15th Canon of the Council of Antioch, it is final, and there is no appeal.

FROM THE MEETING OF THE HOLY EPISCOPAL COUNCIL OF THE SERBIAN ORTHODOX CHURCH, on the 5th day of March, 1964, in Belgrade, EC No. 1/ Min. 38.

S E A L

PRESIDENT
Holy Episcopal Council
SERBIAN PATRIARCH
GERMAN

MEMBERS:
Damaskin, Metropolitan of Zagreb
Nektarije, Metropolitan of Dabro-Bosnia
Danilo, Metropolitan of Montenegro and the Coastal Region
Emilijan, Bishop of Timok
Jovan, Bishop of Nis
Valerijan, Bishop of Sumadija
Makarije, Bishop of Srem
Nikanor, Bishop of Backa
Vasilije, Bishop of Zica
Hrizostom, Bishop of Banat
Visarion, Bishop of Banat
Emilijan, Bishop of Slavonia
Longin, Bishop of Zvornik-Tuzla
Simeon, Bishop of Gornji Karlovac
Vladislav, Bishop of Zahum-Hercegovina
Pavle, Bishop of Ras-Prizren
Andrej, Bishop of Banja Luka
Stefan, Bishop of Dalmatia
Jovan, Bishop of Sabac Valjevo

PLAINTIFFS' EXHIBIT 22

SERBIAN PATRIARCH

P. No. 44/64 March 16, 1964
Belgrade

Your Grace:

By this letter I wish to inform you that The Holy Assembly of Bishops of The Serbian Orthodox Church on its yearly regular meeting took into consideration subject of charges against former Bishop Dionisije and in its meeting of March 5th of this year by unanimous and with one mind decision of *all* diocesan bishops rendered a judgment by which above mentioned Milivojevich is punished by the position of Episcopal and monastic rank, eliminated from the catalog of the bishops—clergy and monks of the Serbian Orthodox Church and returned to laymen status under his lay name Dragoljub.

More detailed information will be sent later.

Your Grace's Brother in Christ
SERBIAN PATRIARCH
German

His Grace Bishop Firmilian
Bishop of the Midwest Diocese
Chicago, Illinois

PLAINTIFF'S EXHIBIT 23

GERMAN

BY THE GRACE OF GOD, ORTHODOX ARCHBISHOP OF PECH, METROPOLITAN OF BELGRADE AND KARLOVCI AND

THE SERBIAN PATRIARCH

With the Holy Bishops Synod of the Serbian Orthodox Church to the reverend clergy and God loving spirtual flock of the God-protected Eastern American and Canadian Diocese, the Grace and peace from Our Lord God and Saviour Jesus Christ, and from our humility, sends its Patriarchal blessing and greetings.

In constant care for the Church of God and in accordance with the rights of succession inherited from the Lord and Chief Sheperd Our Lord Jesus Christ and the Holy Apostles, guided by the Holy Spirit, the Holy Bishops Assembly of the Serbian Orthodox Church, in accordance with the precepts of the holy canons, has elected on Junell (May 19) 1967, His Grace Sava, Vicar-Bishop of Moravice, for Bishop of vacated God-protected Eastern American and Canadian Diocese.

We proclaim with this Certificate of Authority, provided with our seal and signature of the members of the Holy Bishops Synod, that His Grace Bishop Sava has, by the virtue of the Grace of the Holy Spirit, all rights of teaching, officiating and spiritual direction, which, in accordance to the holy canons, belong to him, so we call upon all the clergy and the faithful in the mentioned Diocese to obey His Grace Bishop Sava as good children do their parents, as pupils do their teacher and pastor and with their love and cooperation, and especially with prayers to the Almighty for him, contribute so that he may, with success

perform his service to the Glory of God and for salvation of his flock, and to the benefit of Our Holy Orthodox Church and of the Serbian people.

Given in the Patriarchate on June 5, 1967.

Number:2020/min.38, in Belgrade.

The SERBIAN PATRIARCH,

(Seal of Holy Synod) GERMAN (Signed)

MEMBERS of

HOLY EPISCOPAL SYNOD

Metropolitan of Montenegro, DANILO

Bishop of Srem, MAKARIJE

Bishop of Zvornik-Tuzla, LONGIN

Bishop of Dalmatia, STEFAN

PLAINTIFFS' EXHIBIT 24

Holy Synod of Bishops of the
Serbian Orthodox Church
No. 3602/min. 653
October 22, 1968
In Belgrade

EXCERPT

From the Minutes of the meeting of the Holy Assembly of Bishops for 1921.

In these Minutes it is noted that a meeting of the Holy Assembly of Bishops was held from August 31st to September 13th, 1921, in Sremski Karlovci.

From the Minutes it can be seen that at this meeting there were many subjects to be decided.

Among other things in the Minutes the following is also noted in the appropriate place:

"AS (Holy Assembly) No. 99

The Holy Assembly of Bishops adopts the motion of the appointed commission for the church in America and decides that a delegate of the Holy Assembly of Bishops be sent there in the person of one of the Bishops with a deacon.

Immediately thereafter it (the Holy Assembly) elected as its delegate His Grace Bishop Nicholai of Ochrid."

That this excerpt from the indicated Minutes is faithful to its original, is certified and attested unto by

November 9th, 1968 — Supreme Secretary
Belgrade — Holy Synod of Bishops
The Patriarchate — Mladen Mladenovich (signature)
Archpriest

(SEAL)

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 25

THE HOLY SYNOD OF THE
SERBIAN ORTHODOX CHURCH
No. 331
January 29, 1969
In Belgrade

EXCERPT

From the Minutes of the XVII regular conclave of the Holy Council of Bishops of the Serbian Orthodox Church, held August 31st (September 13), 1921, in Sremski Karlovci—Holy Assembly No. 99.

On pages 146-148 in these Minutes it is recorded that His Grace Bishop Jefrem, as reporter of the special Commission for the Church in America submitted the proposal which states:

"Taking into account the Report of His Grace Bishop Nicholai of Ochrid and responding to the constant and frequent written and orally expressed vital desires (especially those most recent before the delegate of the Holy Assembly of Bishops His Grace Bishop Nicholai) and

doubtless spiritual needs of the Serbian Orthodox clergy and people in North America, that they be received under the wings of the Serbian Church and to be bound to Her in as close an hierarchical tie as possible, and having in view that the Serbian Church until now has already through various Diocesan Bishops in their provincial churches have exercised spiritual care—of the Serbian Orthodox faithful over there by sending their priests to perform pastoral services in various church congregations and by supplying those priests with all necessary authorization to perform such duties and with spiritual means, and especially having in view that those faithful and their church congregations are generative parts of the living church, the Holy Assembly of Bishops decides:

1) To retain further the Serbian Orthodox in North America under its shelter, and to bring them in as close an organic and hierarchical bond as possible;

2) Because of this to express the need that a Serbian Orthodox Diocese be established in North America;

3) That for the organizing of that diocese and exercising hierarchical administration and overseeing in that region a Vicar be appointed dependent upon the Serbian Patriarch, and along with the supreme control of the Holy Assembly and Holy Synod—or a special delegate of the Holy Assembly of Bishops, and when the organization is carried out and its stability determined, to appoint in accordance with the Holy canons a regular designated diocesan bishop;

4) That the organizing should include all Serbian Orthodox Congregations and all Serbian Orthodox people in America, over whom, in accordance with the foregoing, the Serbian Church as Mother Church, has rights and by a directive to formulate the diocesan administration, its

relationship toward the clergy, parishioners and church congregations on the one hand, and towards the Serbian Church on the other, which directive the Holy Assembly of Bishops must confirm.

The first relationship would have to be formulated according to the Holy canons, which clearly determine the concept and content of episcopal jurisdiction with regard to internal administration, while in regard to external economic-material administration along with the preservation of necessary rights and along with the guaranteed duties of the church congregations and their organs.

The Second relationship would be the relationship of hierarchical dependency of the diocese towards the Metropolitanate, which is today represented in the Serbian Patriarchate. The Holy Synod of Bishops shall give closer directives.

5) The salary of the Vicar and deacon should be insured from state resources.

The maintenance of the finally established diocesan administration shall be determined as most practically indicated, in the Directive. The delegate's expenses shall be likewise borne by the state.

6) In the event that any controversy develops over common property with the Russian Orthodox Church, an agreement should be attempted with the competent representatives of the Russian Church."

His Eminence Metropolitan Varnava also orally introduces more light on the very question mentioning that of 30 priests 16 have signed the demand for a bishop, and His Grace Bishop Nicholai explains that this is so only because he was unable to get to all the places nor was he able to wait for the exhibit to be sent to all for signature, however that the archpriests of both protopresbyteries (Eastern and Western) have convinced him that all priests are in agreement.

He concurs with the opinion of the Commission and moves that it be adopted as the only possible thing to do, and that a deacon be assigned to the person who goes.

THE HOLY ASSEMBLY OF BISHOPS:

adopts the proposal of the Commission for the Church in America and decides that a delegate of the Holy Assembly of Bishops be sent there from among the Bishops together with a deacon. Immediately thereafter the Assembly elected as its delegate His Grace Bishop Nicholai of Ochrid."

That this excerpt from the designated Minutes is faithful to its original, is affirmed and certified by

January 29, 1969 (SEAL) Supreme Secretary
Belgrade Holy Synod of Bishops
The Patriarchate S/ Mladen Mladenovich
Archpriest

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 26

Holy Synod of Bishops of the
Serbian Orthodox Church
No. 3602/min. 653
October 22, 1968
In Belgrade

EXCERPT

From the Minutes of the Holy Synod of Bishops for the year 1922.

In these Minutes it is noted that a meeting of the Holy Synod of Bishops was held on the 25th of November (December 8) 1922, in Belgrade.

From these Minutes it can be seen that there were many subjects to be decided at this meeting.

Among other things in the Minutes it is noted in the appropriate place also that the candidates for administrator of the American-Canadian Diocese were nominated, and the Holy Synod of Bishops, having considered this matter, rendered this decision:

"Minutes No. 1061"

As administrator of our Church in America has elected Archimandrite Mardary, who would be in everything subject unto His Grace Bishop Nicholai, to whom is entrusted the administration of our Church in America."

That this excerpt from the indicated minutes is faithful to its original, is certified and attested unto by

November 9th, 1968 — Supreme Secretary
Belgrade — Holy Synod of Bishops
The Patriarchate — Mladen Mladenovich (signature)
Archpriest

(SEAL)

(translator's certificate omitted)

PLAINTIFF'S EXHIBIT 27

TRANSLATION

EXCERPT

From the Minutes of the 20th meeting of the regular session of the Holy Assembly of Bishops of the Serbian Orthodox Church held November 22nd (December 5) 1925, in Sremski Karlovci.

Present: His Holiness the Patriarch and all diocesan Bishops except Bishop Georgije of Budim.

From the minutes it can be seen that there were several subjects to be decided at this meeting.

Among other things in the Minutes in the appropriate place this also is noted:

"Minutes no. 201

Before the beginning of the meeting a Conference was held at which 25 (twenty-five) candidates were set forth for election to the episcopal rank.

After this determination, upon the basis of article 17 of the Laws of the Holy Synod of Bishops and Holy Assembly of Bishops, the election was begun.

1.

The Bishop for the Serbian Orthodox Diocese in America. Upon the motion of His Holiness all the bishops, except Bishop Nicholai of Ochrid, unanimously elected as Bishop of America

Archimandrite Mardary Uskokovich, administrator of the Serbian Orthodox Diocese in America."

That this excerpt from the indicated Minutes is faithful to its original, is certified and attested unto by

November 9th, 1968 — Supreme Secretary
Belgrade — Holy Synod of Bishops
The Patriarchate — Mladen Mladenovich (signature)
(SEAL) — Archpriest

PLAINTIFFS' EXHIBIT 28

Holy Synod of Bishops of the
Serbian Orthodox Church
No. 3602/min. 653
October 22, 1968
In Belgrade

EXCERPT

From the Minutes of the meeting of the Holy Assembly of Bishops for 1928.

In these Minutes it is recorded that the meeting of the Holy Assembly of Bishops was held on the 12/25 of October, 1928 in Sremski Karlovci.

From the Minutes it can be seen that at this meeting there were several subjects to be decided.

Among other things in the Minutes in the appropriate place this also is noted:

"Minutes no. 77

Holy Assembly No. 14

The Holy Synod of Bishops its act Syn. No. 1243/min. 625 of 14/27 of June of the current year submits to the Holy Assembly of Bishops for consideration and approval: The Constitution of the Serbian Orthodox Diocese in the United States of North America and Canada with an accompanying act of 3/16 of April of the current year Diocese No. 26, of His Grace Bishop Mardary and with his remarks.

The Legislative committee having heard also the opinion of His Grace Bishop Nicholai as one who knows America and circumstances over there, recommends that the Assembly render this decision:

I. Authorize the Holy Synod of Bishops that it can approve that Constitution as the temporary regulation of the mentioned Diocese, adhering to the cited directions below and to make it to be in accordance with them.

After having passed upon all directives the Holy Assembly of Bishops rendered this decision:

To accept the motion of the Legislative committee as it was presented together with the passed directives and authorize the Holy Synod of Bishops to approve it."

That this excerpt from the indicated Minutes is faithful to its original, is certified and attested unto by

November 9th, 1968
Belgrade
The Patriarchate
(SEAL)

Supreme Secretary
Holy Synod of Bishops
Mladen Mladenovich (signature)

(translator's certification omitted)

PLAINTIFF'S EXHIBIT 30
Index to Constitution.
EXHIBIT 3

CONSTITUTION
SERBIAN ORTHODOX DIOCESE
in the
UNITED STATES OF AMERICA
AND CANADA

Published by
THE DIOCESAN ADMINISTRATOR OF
AMERICA-CANADA
1939

Translated by: V. Rev. M. D. Mijatovich

CONSTITUTION
SERBIAN-ORTHODOX-DIOCESE
in the
UNITED STATES OF AMERICA
AND CANADA

accepted at the Diocesan Church-National Assembly in 1927, and amended and revised at the Diocesan Church-National Assemblies of 1931 and 1938, approved by the decision of the Holy Bishop's Synod of the Serbian Orthodox Church, Sin. No. 2386/Zap. 1457 of December 1/14,

1928 (in accordance with the authorization of the Holy Bishop's Assembly of the Serbian Orthodox Church A.S. No. 14/77 of 12/25, 1928) and decision of the Holy Bishop's Assembly of the Serbian Church dated May 24/11, 1939 A.S. No. 69/132, 1939.

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First Part

DIOCESE AND DIOCESAN BISHOP

I

POSITION OF THE SERBIAN ORTHODOX DIOCESE in the UNITED STATES OF NORTH AMERICA AND CANADA

Art. 1

The Serbian Orthodox Diocese in the Northern States of America and Canada is considered ecclesiastically-judicially as an organic part of the Serbian Patriarchate in the Kingdom of Yugoslavia and enjoys all the benefits which originate therefrom.

Art. 2

All statutes and rules which regulate the ecclesiastical-canonical authority and position of the Serbian Orthodox Church in the Kingdom of Yugoslavia are also compulsory for the Serbian Orthodox Diocese in the United States of North America and Canada, with the exception of specific cases which must be formulated with regard to local circumstances in accordance with ecclesiastical and judicial principles.

Art. 3

The jurisdiction of the Serbian Orthodox Diocese in the United States of America and Canada with its Diocesan See in Chicago, includes the entire political territory of the United States of America and Canada, which as such by its geographical location enjoys full administrative freedom and accordingly, it can independently regulate and rule the activities of its church, school and other diocesan institutions and all funds and beneficiencies, through its organs, but in accordance with the laws of ths constitution and in agreement with the laws of the United States of America and Canada.

Art. 4

The Serbian Orthodox Diocese in the United States of America and Canada is comprised of Serbian Orthodox Church-school Congregations-Parishes, churches, monasteries, archpresbyterates, established within the territory of the above mentioned states and which fall under the spiritual, executive, ecclesistical-judical and controlling authority of the diocesan organs (Bishop and Diocesan Council). Therefore, every Serbian Orthodox Chuch-school Congregation, church, monastery, and archpresbyterate already existing or which shall be established in the above mentioned territories must be in ecclesiastical-canonical bond with this Diocese and recognize its authority and power.

Art. 5

This Constitution embraces all legislative and administrative organs of the Diocese and by it are regulated the following church authorities and its organs:

A) DIOCESAN CHURCH-NATIONAL ASSEMBLY, whose executive and administrative organ is the Diocesan Council which is composed of two committees:

1) Diocesan Religious-Educational Board, and

2) Diocesan Financial-Executive Board, and

B) DIOCESAN ECCLESIASTICAL COURT.

lower authorities and organs are:

1) District archpresbyterates whose organs are archpresbyterate offices and archpresbyters;

2) Serbian Orthodox Church-School Congregations, the organs of which are the church-school general assemblies and executives boards,

3) Serbian Orthodox Parishes, the organs of which are the parochial chanceries and the parish priests.

Art. 6

Every organ of the church-school board in the Diocese is subordinated in all executive matters directly to the higher executive organs of the Diocese.

Art. 7

The filing of complaints against decisions of the diocesan authorities must be submitted within a 30 day period excluding the date of decision, namely date of receipt, and it is considered that the complaint is duly presented if filed before the 30 day expiration date.

Art. 8

The diocesan authorities decide independently on all matters within their jurisdiction and in accordance with this Constitution, so that the protection of the civil authorities cannot be sought against their decisions except if same conflicts with the laws of the United States and Canada.

II

DIOCESAN BISHOP

Art. 9

The Bishop of the Serbian Orthodox Diocese in the United States of America and Canada is appointed by the Holy Assembly of Bishops of the Serbian Patriarchate.

Art. 10

The Bishop by virtue of his archipastoral calling is privileged in granting church-educational directives in the general activities of the diocese.

The following comes within the jurisdiction of activity of the diocesan bishop:

a) to preserve, defend and sustain among the people, One, Holy, Ecumenical and Apostolic church and repel all activities contrary to Orthodoxy;

b) to see that the divine worship in church is conducted in accordance with the church law-constitution;

c) to endeavor, in accordance and in co-operation with the Diocesan Council, that new church-school congregations be established, that churches be erected and repaired, and he, himself, to check and to approve the holy icon screens, murals and all important church-serving essentials and vestments;

d) to see that all churches are supplied with Holy Chrysm, service books, crosses and generally with all necessary church articles essential for the divine worship, as well as that all be kept in good order and recorded in a special inventory;

e) to consecrate new churches and corporals;

f) to make canonical visitations in his Diocese in accordance with church regulations;

g) to ordain worthy persons with theological training to priesthood, if needed; to appoint them to parishes and to elevate deserving clerics in all priestly and monastic orders;

h) to execute all canonical orders of the Holy Assembly of Bishops;

i) to appoint replacements for deceased abbots, vicar-generals and priests until the election of his permanent replacement;

j) to appoint substitutes for those priests on vacation or sick-leave or who have been assigned to perform some national or official duty;

k) to direct, when a church is closed due to building hazards and it being unsafe to serve in same, where the church serving essentials are to be stored for safe-keeping and where the priest will conduct services.

l) to decide questions of degrees in relationship and to, within the canonical limitations and the decisions of the Holy Bishop's Assembly, render dispensations to related persons to wed; and to grant dispensation from announcements in instances of proven necessity.

m) to grant leaves for priests and personnel of the Ecclesiastical Court;

n) to mitigate the degree of punishment pronounced by the Ecclesiastical Court, if he finds justifiable cause to do so;

o) to inform the clergy and laity of various canonical directives from the Holy Pontificial Synod;

p) to submit to the Holy Bishop's Assembly of the Serbian Patriarchate an annual report of his archipastoral activities; and,

q) to prepare, accept and appoint new priests for this Diocese according to the indicated need and with prior agreement of the Ecclesiastical Court.

Art. 11

The Diocesan Bishop, within his canonical rights will issue when the need arises, greetings and epistles to the clergy and laity of his diocese, in order to strengthen faith and christian morals.

Art. 12

The Diocesan Bishop in the United States of America and Canada is obliged to recognize as the head of the Serbian Patriarchate, the Archbishop of Ipek, Metropolitan of Belgrade-Karlovac and Serbian Patriarch, whom he mentioned in all services. He shall not make any changes or innovations in the established order and work of the church without prior agreement with him.

Accordingly, the Diocesan Bishop shall submit to the Serbian Patriarch for review, all regulations which may be issued by any diocesan authority, which shall if they touch upon the sphere of internal church administration,

be subject to the approval of the Holy Pontificial Synod, as the highest executive church authority.
Should the Diocesan Bishop find by his own assurance, that decisions rendered by any church authority or organ are contrary to the teachings of the Holy Church, her regulations and canons, or to the vital interest of the church, he shall halt the execution of such decision and submit the matter for rediscussion and redecision. If he again is not in accord with redecision as reconsidered, he shall submit the case for final decision to a higher authority and if necessary, to the Holy Pontifical Synod.

Art. 13

In the event of illness or absence, the Diocesan Bishop assigns his own substitute and designates his authority. When the seat of the Diocese Bishop is vacated, the administration of the widowed diocese is upheld in all her spiritual and administrative matters by the Ecclesiastical Court and the Diocesan Council until the appointment of an administrator, which appointment is made by the Serbian Patriarch with the Holy Poantifical Synod.

Art. 14

The administrative divisions of the Diocese into archpresbyterates and vicar-generalities as well as all the boundaries of the parishes, is done by the Bishop together with the Ecclesiastical Court and the Diocesan Council when the need calls for same.
The Diocesan Bishop is at the time the supreme head of the St. Sava Monastery in Libertyville. He appoints the abbot of same and conducts the canonical supervision and the higher executive authority over the monastery.

Second Part

DIOCESAN CHURCH-NATIONAL ASSEMBLY

Art. 15

The Diocesan Assembly is the main legislative and controlling body in the Diocese and represents the entire Orthodox Serbs in the United States of America and Canada.

Art. 16

The Diocesan Assembly consists of:

1) Delegates elected by individual church-school congregations, namely, two laymen:
2) Both orders of all the Serbian Orthodox clergy:
3) Diocesan Bishop;
4) all members of the Diocesan Council;
5) All Serbian colonies who are without a church and priest, but who have a regular school operating under Diocesan jurisdiction, have the right to two delegates, one of whom is obligatory the teacher of the school.
6) Representatives of the people at large and distinguished educators and friends of Orthodoxy and of our people's welfare, are privileged to attend all Diocesan-Assembly meetings in the capacity of advisory members, but without the right to vote.

Art. 17

All delegates must possess the prescribed credentials which must be verified by the Credentials Committee.

Art. 18

The travelling expenses of the delegates are financed by their respective organizations, namely, congregations.

Art. 19

Delegates of one organization may also represent another organization in cases where the necessity is justified, in which event both organizations, i.e. congregations share in the delegates expenses equally.

Regardless of how many congregations or organizations they might represent according to the submitted credentials, all delegates are entitled to only one vote each. Each delegate must be a member in good standing of the church-school congregation and as such may be elected to the Diocesan Council. In case he ceases to be a member of his church-school congregation, he automatically ceases to be a member of the Council.

Art. 20

The Diocesan Assembly meets in session every third year in the month of September or on the day designated by the Diocesan Bishop where the Episcopal See is located—Libertyville—decides on all administrative, financial and religious-educational church matters which concern the entire Diocese i.e. its constituents.

Art. 21

The election of the delegates to the Diocesan Assembly should be made, if possible, a month prior to the Diocesan Assembly.

Grievances against elected delegates for the Serbian Church-National Assembly are directed to the Diocesan Council within eight days from the date of election.

Art. 22

The Diocesan Assembly is opened by the Diocesan Bishop who is by virtue of his high calling, the president of the assembly. Upon opening the assembly he shall invite same to be duly constituted and to elect the necessary presidium: two vice-presidents, one of whom is a priest, and one a layman and two or more secretaries.

Art. 23

The Diocesan Assembly upon being duly constituted, performs the following:

1) changes and amends the order of agenda submitted by the Diocesan Council;

2) accepts reports of the Diocesan Council dealing with the entire work in the Diocese for the past three years;

3) decides concerning the sources and acquisition of revenue required for the maintenance and support of the Diocese;

4) approves the program of work of the Diocesan Council for the ensuing three years;

5) decides on all matters which the Diocesan Council submits for consideration;

6) elemts the Diocesan Council for a three year term;

7) controls the assets of the Diocese, the entire past year's work of the Diocesan Council and its organs;

8) decides on changes and amendments to the Constitution with the approval of the Holy Bishop's Assembly of the Serbian Patriarchate.

Third Part
DIOCESAN COUNCIL

Art. 24

The Diocesan Council is the main executive and controlling board in the Diocese for external church religious and educational matters.

Art. 25

The Diocesan Council, in addition to the Bishop, is composed of twelve regular members elected by the Diocesan Assembly for a period of three years, seven of whom are of the laity; five of the clergy and six alternates, four of whom are of the laity and two of the clergy.

Art. 26

Members of the Diocesan Council may not be related to one another or to the Bishop to within four degrees of canonical computation, neither as blood relatives or through marriage.

Art. 27

The mandate of the members of the Diocesan Council continues for three years beginning from the day of election. Until that time, old members perform the work of the Council.

Art. 28

Membership in the Diocesan Council is honorary and therefore is fulfilled without any compensation, except in the cases of members from afar whose traveling expenses are paid.

Art. 29

Upon assuming their positions of trust, the members of the Diocesan Council must at an open meeting take an oath before the Bishop stating that they will perform their duties conscientiously, correctly and objectively and to the best of their abilities fulfill same and that they will keep in strict confidence official secret deliberation.

Art. 30

The Diocesan Council is comprised of two sections—committees;

I. Diocesan financial-executive committee and

II. Religious-educational committee

a) Each of these two committees, aside from its president, has six additional regular members: the religious-educational committee has three laymen and three clergymen and the financial-executive committee has four laymen and two clergymen. Alternate members, three from the clergy and three from the laymen, are appointed by the Bishop for each committee in accordance with the Diocesan Council.

The president or vice-president may designate one member from either section to preside over either section in case of necessity.

b) The Diocesan Council holds its meetings thrice annually and if necessary, more frequently;

c) the president of the Diocesan Council is the Diocesan Bishop. The vice-president is appointed by the Bishop in agreement with the Diocesan Council. He is simultaneously the vice-president of every diocesan body except the Ecclesiastical Court, if he is not a clergyman;

d) The diocesan secretary, who is at the same time the secretary of the Diocesan Council also, is appointed by the Bishop as a permanent clerk of the Diocese. The secretary of the Diocese is paid his wages from the Diocese Treasury;

3) The referant of the Diocesan Council is the diocesan secretary or an expecially appointed member of the Diocesan Council.

f) Should a vacancy occur in the Diocesan Council, it is filled by election of the Diocesan Council.

Art. 31

The committees of the Diocesan Council hold their meetings regularly once a month, or when necessity demands. Each regular member of the committee, if he is unable to attend a meeting, is obliged to notify the president of the Council on time, who will then take the necessary steps to invite an alternate member to the said meeting.

Art. 32

In rendering valid decisions in the Diocesan Council, it is necessary that two-thirds of the members be present besides the president and vice-president.

In order that the committees of the Diocesan Council might render valid decisions it is necessary that two-thirds of its members be present personally or represented by their alternates in addition to the president i.e. vice-president.

Art. 34

At meetings of the Diocesan Council and the committees of the Diocesan Council, minutes must be kept in which are reported the names of the present members, reason for absence of those not present, remarks to the minutes of the previous meeting, announcements and correspondence which comes within the scope of their authority, issues which had been discussed and voted upon, the results of the vote and realized conclusions with notations as to how those present voted individually. The minutes must be signed by all present and excerpts of the minutes only by the secretary with the seal of the Diocesan Council.

Art. 35

Grievances submitted within the prescribed time limit against the decisions of the committees of the Diocesan Council will be decided by the Diocesan Council in plenum.

JURISDICTION OF THE DIOCESAN COUNCIL

Art. 36

General Duties are as follows:

1) To see that church-school congregations, monasteries and all its organs perform their duties correctly and conscientiously;

All liens against church-school congregation property (mortgages) must be previously approved by the Diocesan Bishop, i.e. the Diocesan Council; in regard to incurring debts in general, the church congregation may indebt itself only up to the sum of five hundred dollars without the consent of the Diocesan Council;

2) to prepare and submit necessary regulations, orders, instructions and decisions in this respect and in the matters of all executive and religious-educational needs of the diocese;

3) to prepare and submit to the Diocesan Church-National Assembly, recommendations for various regulations and directives which are to be legislated by this body for the entire diocese;

4) to conduct the election of delegates to the Diocesan Church-National Assembly in accordance with the rules of this Constitution;

5) to decide in the matters of the Diocesan income and assessments;

6) to set up its own agenda;

7) to create funds required for the entire Diocese;

8) to receive and debate the reports of its committees-sections and to consider their activities and the status of the Diocese and to render appropriate decisions on the subject of said reports;

9) to debate the grievances submitted against the decisions of the committees-sections of the Diocesan Council.

10) to submit recommendations, according to the need, to the Diocesan Assembly for the change and amendment of this Constitution;

11) to initiate and extend such tasks which it might consider to be generally beneficial.

Art. 37

In matters of administration and control:

10) to Consult on all relations and needs of the Serbian Orthodox religious schools for religious education and to bring forth in that respect, necessary decisions and directives;

2 to prepare and submit regulations for the entire Diocese in regard to the religious-education in the church schools, teaching curriculum and disclipinary code for the teachers;

3) to supervise that the directives for school regulations and teaching curriculum are correctly carried out and that the prescribed religious-cultural school text books are widely used;

4) to choose Diocesan religious-educational supervisors, if necessary, through whom supervision is exercised over all religious-educational institutions in the Diocese;

5) to receive reports from the said supervisors and formulate necessary decisions on same;

6) to receive an annual report from all its committees covering their work and to prepare an annual report from same of the entire work within the diocese and to submit it to the Diocesan Assembly;

7) to decide the organization and development of religious-educational schools for religious-cultural education and beneficial institutions in the Diocese.

I. DIOCESAN RELIGIOUS-EDUCATIONAL COMMITMITTEE-SECTION:

Art. 38

In the jurisdiction of the activity of this committee-section, aside from the religious-educational activity, it should also decide:

1) grievances against decisions of the bodies of church-school congregations in matters of strictly educational and school character: to approve their decisions, i.e. to disapprove them whenever this Constitution proves cause for same;

2) to decide disputes arising between parish priests and church-school congregations and its organs insofar as same do not concern spiritual matters.

3 to prepare recommendations for the Diocesan Council for directives, orders and regulations which pertain to the official activity of the lower organs of the Diocesan authorities and which relate to matters of school and education;

4) to submit to the Diocesan Council for approval, i.e. decision, its reports, findings and financial statments;

5) to execute the decisions and orders of the Diocesan Council;

6) to examine, approve and confirm the rules and decisions of the congregation insofar as it is within the scope of the Constitution;

7) to direct and send representatives for the purpose of investigating various improprieties of lesser bodies in church-parochial schools and to take adequate measures to eliminate various faults and insufficiencies in educational and school activities.

Art. 39

In administrative and controlling matters of religious schools for religious education, this committee-section is authorized to:

1) approve decisions made by church-school congregations to erect new schools;

2) to endeavor that school buildings be built in accordance with regulations, that they be furnished with the best of teaching materials and that only qualified teachers be placed in same.

3) to control that church-school congregations authorities fulfill their obligations punctually, submit their reports to the Diocesan Council regularly, statistical data and requests.

4) to confirm the election of teachers selected from church-school congregations and to issue to them their confirmations;

5) to judge in the disciplinary matters of teaching personnel in accordance with the disciplinary rules which the Diocesan Council will present;

6) to arbitrate and decide on differences between teacher, clergy and school-church congregations and their bodies insofar as they touch upon school and teaching relations;

7) to compile an anual report of the status of all its external and internal religious-educational institutions in the Diocese, which report will be published in the Diocese paper) and to submit same together with the propositions to the Diocesan Council:

8) to effect the decisions of the Diocesan Council insofar as they concern religious-educational activity;

9) to place substitutes in teaching vacancies, until valid decision is final;

10) to maintain a list of all religious-educational institutions and teaching personnel in same;

11) to assume responsibility that the supervision of all religious educational institutions be carried out.

II FINANCIAL - EXECUTIVE COMMITTEE — SECTION

Art. 40

Of the members of this committee-section, the Diocesan Bishop in agreement with the Diocesan Council names to same, the Diocesan Treasurer and assistant treasurer. The treasurer of the Diocesan Council must be under bond, said bond being twice the amount of cash at the disposal of the Diocesan funds.

Art. 41

Also within the jurisdiction of the Financial-Executive Committee

1) to maintain that regular inventories are kept of all real and personal property of the Diocese, church-school congregations, monasteries, funds (beneficiencies) which can be included in same;

2) to control the status, handling and usuage of those funds (beneficiaries) and properties which are directly supervised by the school-school congregations and monasteries;

3) to examine the submitted final financial statements for the past year and to approve church-school congregation and monastery budgets for the subsequent year;

4) to handle directly and under the supervision of the Diocesan authorities, the funds (beneficiencies) which serve the church-religious educational and humanitarian aims of the entire Diocese and monastery in the Diocese.

5) to supervise over all Diocese property and beneficiencies.

6) to check and keep in its file, one copy of the property inventory of the church-school congregations, monasteries and Diocese.

DIOCESAN ECCLESIASTICAL COURT

Art. 42

The Diocesan Ecclestical Court is comprised of the Bishop as president, four regular and three alternate members. the regular members and alternate members of the Diocesan Ecclesiastical Court are appointed and relieved of duty by the Bishop.

Art. 43

Members of the Diocesan Ecclesisatical Court may be clergy of both orders but they cannot be related amongst themselves or with the Bishop to within four degrees of canonical computation, be it blood relationship or through marriage.

Art. 44

The Diocesan Ecclesiastical Court maintains its own legal counsel when necessary, who is at the same time the defender of marital unions and attorney for the Diocesan Council, namely the Diocese. He must have legal training (bar

admission) to practice in the country-state, and he is appointed by the Bishop of the Diocese in accord with the Diocesan Council.

Art. 45

The members of the Diocesan Ecclesiastical Court, regular or alternates, as well as its clerks (including the attorney) swear an oath to the Diocesan Bishop which is as follows: "I (N.N) swear to Almighty and All-Knowing God, that I will fulfill all duties and activities entrusted to me carefully and conscientiously without any objectives, that I will, before the enaction of any decision, most zealously uphold all the laws and canons which relate to the subjects of the office entrusted me and that I shal guard official secrets most honorably. So help me God."
This oath must be personally signed by each member and submitted to the Diocesan Bishop.

Art. 46

The president of the Diocesan Ecclesiastical Court is the Diocesan Bishop; should he not be available, he transfers the administrative work to his representative in accordance with Art. 13 of this Constitution.

Art. 47

The meetings of the Diocesan Ecclesiastical Court are held as required at the invitation of the Diocesan Bishop. All regular members must be invited to the meetings as well as the required member of alternate members and the latter, if possible, should be from the immediate vicinity of the Diocese seat.

Art. 48

The members of the Diocesan Ecclesiastical Court are not authorized to meet at meetings of the Ecclesiastical Court without the knowledge of the Diocesan Bishop or his appointed substitute.

Art. 49

The Diocesan Ecclesiastical Court may always make valid decisions at its meetings, if two-thirds of its membership is present.

Art. 50

Meetings of the Diocesan Ecclesiastical Court are not public. If a case involves one of the members or his family or relatives to within four degrees of relationship he must leave the meeting until the case is settled.

Art. 51

A motion approved by all members or their absolute majority becomes valid and should immediately be pronounced as such when the Bishop approves it.
If the vote is tied, the motion endorsed by the Diocesan Bishop, i.e. his representative, becomes the valid decision.
If the vote is entirely deadlocked, the Bishop calls a new hearing at the next nearest meeting.

Art. 52

At each meeting of the Diocesan Ecclesiastical Court, the Diocesan secretary (Bishop's secretary) take minutes which include the names of the members present as well as those absent and their names, comment to the minutes of the previous meeting, announcements and correspondence which come within the jurisdiction of the Diocesan Eccelsiastical Court, subjects discussed and voted upon, results of vote and final decisions with notations indicating how all present voted. The minutes must be signed by all members present and the excerpts from the minutes only by the secretary.

Art. 53

Decisions made by the Diocesan Bishop alone or together with the Diocesan Ecclesiastical Court, have the validity and power of decrees of Ecclesiastical Courts in the first instance. The highest and final instance is the Holy Bishop's Synod.

The Diocesan Ecclesiastical Court decides matters of divorce in the first and final instance, except in the cases of marriage annulments or an appeals of a decision of the Diocesan Ecclesiastical Court in which case the Holy Bishop's Synod is the final instance.

Art. 54

All decisions pertaining to the unfrocking of priests or presbyter-monastics are made not only by reason of complaint but also by official duty, to the Holy Bishop's Synod for consideration and final decision.

Art. 55

The jurisdiction of the Diocesan Ecclesiastical Court is:

1) to see that the teaching of the fatih is preserved intact and that the church rituals are maintained in their entirety;

2) to see that priests and presbyter-monastics perform their duties both in and out of the church and that the religious-moral life of the cleries and people coincide with church regulations;

3) to provide instructions for religious education in general, to be informed through contact with its bodies on the religious-moral situation of the people and Serbian Eastern Orthodox children in all schools.

4) to arbitrate and decide upon differences arising between archpresbyters, priests and missionaries, insofar as they relate to their spiritual service and official relations;

5) to judge in all disciplinary matters which relate to church discipline and order of the cleries and people and also in the matters relating to the performance of the Holy Sacraments and marital matters;

6) to, if necessary, call for plenishment of vacant parishes;

7) to engage, in accordance with this Constitution, in the organization of new, dissolvement of old or other re-

orientated existing church-school congregations, parishes, achpresbyterates, monasteries, and in the designation of their headquarters;

8) To formulate directives for the official activities of district archpresbyterates insofar as the directives relate to their spiritual stewardship and to see that the church-school congregations, parishes fulfill their obligations in matters designated within their jurisdiction;

9) to assume responsibility that all new churches are built in accordance with Orthodox rites, that they are consecrated according to regulations, that they are furnished with service books, materials, and essentials and that church cemetaries are consecrated and properly fenced;

10) to maintain that correct inventories are kept listing church vessels; orders a list of all churches, parochial and monastic clergy and the number of christian souls and homes and that all are entered in special books;

11) to see that official church records and generally all that is necessary for parish life (monastery) as well as prescribed books and minutes, are kept in order and according to regulations.

12) to submit an annual report of its work to its Diocesan Bishop who will publish it in the official organ each year.

Art. 56

Court procedures and order of business of the Ecclesiastical Court will be prepared by the Ecclesiastical Court itself with the approval of the Holy Bishop's Assembly of the Serbian Church.

If the Bishop should disagree with the decision of the Diocesan Ecclesiastical Court, as well as with the decision of some Diocesan committee or Diocesan Council, the matter in question will be sent to the Holy Bishop's Synod of the Serbian Church for final Decision.

Fourth Part
LOWER DIOCESAN ORGANS
I. DISTRICT ARCHPRESBYTERS AND ARCHPRESBYTERATES

Art. 57

District archpresbyterates are a group of more church-school congregation-parishes which are under the spiritual supervision of one and the same district archpresbyter.

Art. 58

Each Serbian Orthodox School-Church congregation-Parish which exists or which is to be organized in this country, must be in canonical unity with one of the existing district archpresbyterates.

Art. 59

The present district archpresbyterates, their headquarters and their boundaries remain intact for the present but in the future the changes in this respect will be made only after a hearing of the Diocesan Council and the Diocesan Ecclesiastical Court, the interested clergy and people, the decision of which will be based solely upon the interests of the church and church welfare.

Art. 60

Accordingly, there exists and shall exist until further decision, three district archpresbyterates: eastern, central, and western.

Art. 61

District archpresbyters are spiritual heads of one archpresbyterate, appointed permanently in a valid manner, and furthermore, as a confident of the Diocesan Bishop and Diocesan Authorities is authorized in their behalf and at their request to effect all spiritual supervision over clergy, people and all church and religious-educational institutions of his district and in this respect is elevated in rank to archpresbyter and appointed.

Art. 62

The vacated position of an archpresbyter must be filled within six months after said vacancy occurs.

A temporary substitute is appointed by the Bishop in agreement with the Diocesan Ecclesiastical Court.

To fill the vacancy of the position of an archpresbyter, the Diocesan Ecclesiastical Court candidates three clergymen, pastors of this Diocese who have passed the presribed residual examinations insofar as they were not exempt from same and who have as clergy fulfilled parish duties and from amongst whom the Diocesan Bishop will name a permanent archpresbyter.

Art. 63

The church-jurisdictional position of the district archpresbyters includes the following rights and obligations, namely:

1) He is a mediator between the Diocesan Ecclesiastical Court and the district parish offices and in general all the territorial clergy and people: in exclusive spiritual matters and as such if obligated to announce the orders, decisions and rules of the Diocesan Ecclesiastical Court to the parish offices as well as to submit petitions, grievances and in general all requests of the above mentioned to the Diocesan Ecclesiastical Court with all his remarks, reports and eventual propositions;

2) he is the controlling organ of the Diocesan administration in all its activities of the clergy and people, parochial offices and church-school congregations in spiritual and administrative matters, and all church and religious-educational institutions of his district; consequently, his duty is to make annual canonical visitations in his district in accordance with the rules of this Constitution and instructions of his Diocesan Bishop and competent Diocesan authorities and to submit a report on each occasion to the Diocesan administration.

3) he is the investigating organ of the Diocesan administration in all church corrective and disciplinary matters as well as in the executive matters of his district clergy, teachers and faithful and church-school congregations and their organs and the parochial offices insofar as the Diocesan Bishop and competent Diocesan authorities would not entrust the same duties to another as its special representative.

4) He is the executive organ of the Diocesan administration and, therefore, it is his duty to execute orders, decisions, rules and decrees of the Diocesan administration in his district, i.e. all responsibility for same to be fulfilled by all who are bound to do same.

Art. 64

In order that district archpresbyters might correctly fulfill these specific duties of their office, the Diocesan Bishop together with the Diocesan Ecclesiastical Court and Diocesan Council will compile specific instructions and publicize same for the knowledge and acceptance to all the clergy, school-church congregations and parishes.

Art. 65

District archpresbyters maintain separate offices and have a special archpresbyterial seal with lettering reading: "Serbian Orthodox Archpresbyterate Office N.N." encircled and the image of St. Sava in the middle.

Art. 66

The district archpresbyters in their official capacity are under the supervision of the Diocesan authorities and they are duty-bound to submit in all matters without exception, to the prescribed laws and directives.

Fifth Part
CHURCH SCHOOL CONGREGATIONS

Art. 67

A Serbian Orthodox Church-School Congregation is a community of Serbs who profess the Orthodox faith and live in one or more localities which are bound together and which comprise geographic and administrative unity according to the laws of this country.

Art. 68

Each Church-School Congregation is considered an integral part of the Serbian Orthodox Diocese in the Northern United States of America and Canada and as such is subject to all the statutes of this Constitution church canons and other regulations, rules and orders of the Diocesan authorities headed by the Diocesan Bishop.

Art. 69

The aim and purpose of the Church-School Congregation is to uphold maintain and promote the church, school and all institutions which benefit Serbainism and Orthodoxy and to work towards the promotion amongst the members of same, fraternal love and unity and useful citizens of this country, mutually helping one another in the moral and spiritual development of the fulfillment of the proposes of the Serbian Holy Orthodox Church.

Art. 70

Members of the congregation are only those Serbs who have voluntarily assumed upon themselves the duties and burdens prescribed by the church school by-laws and have thereby achieved the right to actively participate in the work of the Church-School Congregation.

Art. 71

Any person who desires to become a member of the congregation reports to the congregation board which either accepts or rejects him by a majority vote. Persons not admitted to membership or when they are expelled from same, are entitled to grievance to the Diocesan Council within thirty days from the day the decision of the Church-School Board was submitted unto him. The decision of the Diocesan Council is final and obligatory for both sides on this grievance.

Art. 72

Persons not abiding with the statutes of the church-school by-laws are considered only as parishioners, i.e. subjects of the church and do not enjoy those rights which pertain only to the members in accordance with the by-laws of the Church-School-Congregation.

Art. 73

The following cannot be members of a Church-School Congregation:

1) persons under eighteen years of age;

2) persons who are proven to have scandalized others by their immoral conduct and life;

3) persons who can be proven to work against the church, Diocese and Orthodoxy;

4) those, who openly admit and who can be proven to be anarchists, communists, nihilists and bigamists.

Art. 74

Each new member of the Church-School Congregation must take an oath that he will be obedient to all the statutes prescribed by the Church-School by-laws, Constitution of this Diocese and the orders of the Diocesan authorities.

CONDITIONS FOR THE ORGANIZATION OF CHURCH-SCHOOL CONGREGATIONS

Art. 75

The following conditions are essential in the organization of a Church-School Congregation in one locality:

1) Petition to the Diocesan Bishop, signed by all who wish to organize a church-school congregation in which they obligate themselves to support same both materially and morally;

2) Proposal of the church-school by-laws, which must be composed in accordance with this Constitution and approved by the Diocesan authorities;

3) Petition for the establishment of a necessary fund to purchase land for the building of a school and church on same, and

4) submission of estimate and plans for the building of the church and school.

CONSTITUENTS

Art. 76

The Church-School Congregations are governed by these organs:

1) Assembly of Church-School Congregations;
2) Executive Board;
3) Controlling Board;
4) Priest- rector;
5) Tutori (wardens) of the church.

Art. 77

The assembly of the Church-School Congregation is comprised of all members in good standing.

Art. 78

Those persons, who on the day of the assembly become members, do not have the right to vote at said assembly.

Art. 79

The regular annual assembly of the Church-School Congregation is held annually on the day designated by the By-Laws of the Church-School Congregation. The election of the new board must be submitted to the Diocesan Bishop, i.e., to the Diocesan Council within fifteen days of the date of the assembly for the Diocesan statistical records.

Art. 80

The agenda for the annual assembly is set forth by the Executive Board of the Church-School Congregation and must be strictly upheld by the presidium of the assembly. In the event that certain unforeseen questions and proposal should arise in the agenda, the president of the assembly can incorporate them only under the item "questions and proposals" and discuss them as such and bring forth decisions concerning them.

Art. 81

The Executive Board is obliged to set the day of the calling of the assembly one month in advance and if possible, publicly announce the agenda.

Art. 82

The president of the Executive Board opens the assembly and calls upon the members present to elect the presidium as follows: president, vice-president, secretary and two members to verify the minutes.

Art. 83

On opening the assembly and the election of the assembly presidium, the procedure follows in accordance with the agenda. Upon submitting the reports of the activities of the Executive and Controlling Boards and the acceptance of these reports, and the same Boards are relieved of their duties, the election of a new board is conducted as well as all other items designated in the agenda.

Art. 84

Immediately following the election of new officers of the congregation they are obliged before continuing with the agenda, to take an oath before the priest and in the presence of the entire assembly, that they will perform their duties conscientiously and honestly, always keeping in mind first the interests of the congregation and their Diocese.

Art. 85

Included within the jurisdiction of the activities of the assembly are:

1) election of the presidium of the assembly;
2) submission of the reports of the activities of the retiring boards;
3) release of the old boards;
4) election of the new boards;
5) all matters which do not pertain to the jurisdiction of the activities of the church-school board;
6) the question of salaries and income of the priest and teachers;
7) questions of church-school economy;
8) questions and proposals;

Art. 86

All misunderstandings and disagreements which might arise in the course of the year between the priest and teachers on one side and the Board of the Church-School Congregation on the other side, must be submitted for consideration to the Diocesan Council. The Diocesan Council through its official Diocesan organs will investigate and study the matter and submit its decision to the Board. The decision of the Diocesan Council is final.

Art. 87

In the event that some more important questions should arise during the course of the church-school year which the church-school board is not authorized to decide and it is evident that its decision cannot be postponed until the regular annual assembly, the Board of the church-school congregation will call a special assembly which can decide only upon the matter for which it was convened.

Art. 88

At the demand of one-third of the members of the Church-School Congregation, the Board is obliged also to call a special assembly as well as if same is demanded by the Diocesan authorities.

Art. 89

All decisions of the regular and special assemblies are made by the relative majority of members present. In the event the vote is tied, the vote of the president decides.

Art. 90

Any member who abuses his privileges as a member of the Congregation by creating disorder and obstructing the procedure of the assembly, can be barred from the meeting by the presiding officers at the assembly.

Art. 91

The assembly may be opened and validly render decisions provided a relative majority of its members in good standing are present.

Art. 92

If at the first call to the assembly a relative majority of members in good standing fail to be present, a new assembly shall be called within fourteen days which may render valid decisions if more than one-third of the members in good standing are present.

Art. 93

If at this second call the required number of members fail to be present (more than one-third) the minutes on same are composed and signed by the president, priest and all present members and are then submitted to the Diocesan Council which will bring a decision on further procedures.

Art. 94

Should the assembly of the Church-School Congregation over-step the boundaries of the jurisdiction and intentionally prevent the execution of the directives of the Diocesan authorities, the Diocesan authorities are empowered to annual such decisions and to entrust the governing of the said Church-School Congregation further to the retired board and only then issue permission to call a new assembly when the Diocesan authorities receive sufficient evidence and guarantee from the membership that that assembly will be conducted in peace and in the manner prescribed by the Diocesan Constitution and the church-school by-laws.

EXECUTIVE BOARD

Art. 95

At the head of the Church-School Congregation is the congregation administration which is comprised of the Executive and Controlling Boards.

Art. 96

The Executive Board consists of: president, vice-president, secretary, treasurer, financial secretary, two tutors (wardens) and the necessary number of committee-men.

Art. 97

The Executive Board is elected by the regular congregation assembly according to the prescribed statutes for a period of one year.

Art. 98

The priest is a member of the Executive Board by virtue of his position.

Art. 99

The regular meetings of the Executive Board are held once a month and special meetings whenever the need arises.

Art. 100

The meeting is called by the president who decides and composes the agenda. The president is compelled to call a meeting at the demand of one-third of the members of the executive board.

The meeting is opened and closed with prayers read by the parish priest.

Art. 101

The decisions of the Executive Board are valid when all members are duly called when the relative majority is present (one over one-half) of its members. In the event that at the first calling not more than half of the members are present, the meeting is called again with seven days when one-third of the members can render valid decisions. In the event that this time not even one third of the members are present, the president is obliged to summon a special assembly within fourteen days at which he must bring up the question of the trust to the Executive Board. The Executive Board is obliged in its entire work and in its decisions to strictly uphold the statutes of this Constitution and By-Laws of its Church-School Congregation as well as all the directives of the Diocesan authorities.

Jurisdiction of the Executive Board is:

1) to decide the date and place of the calling of the Church-School Assembly;

2) to examine the roster of congregational membership;

3) to prepare proposals for the Church-School Assembly dealing with all matters which fall within its jurisdiction of activities;

4) to execute the decisions of the Assembly and the directives of the Diocesan authorities;

5) to inventory all real estate and financial funds of the congregation in two copies, one of which is sent to the Diocesan authorities;

6) to govern and handle with the entire real estate and financial funds of the congregation and to care for its maintenance;

7) to satisfy all the needs of the congregation, church, school, and etc. relating to this;

8) to determine the means of acquiring funds for the building and repair of the church, school, parish home, and other useful buildings; to submit proposals for and in that respect together with plans, building estimates and expenses to the Church-School Assembly for approval.

9) to propose to the assembly the manner of paying the priest, teachers and other personnel and to see that the same receive the prescribed salaries on time and in the prescribed manner;

10) to decide as to whether certain demands of the congregation shall be rejected as impossible to achieve; whether a law suit shall be started, continued, abandoned or an agreement with the opponent reached; whether certain contracts in the name of the congregation should be concluded, continued, broken or rejected, and whether anything should be purchased from congregational funds;

11) to name an attorney for the Church-School congregation in case of law suits;

12) to take care of the congregation library, organization lectures, socials and entertainment;

13) to assist the priest and teachers in the religious and moral education of the people in order that bad, morally and materially harmful habits and customs be eradicated.

14) to submit recommendations pertaining to the Orthodox Church and school; to preserve and defend the honor and dignity of the Church and Church-School Congregation;

15) to awaken and maintain in the colony love, zeal and sacrifice toward the Serbian Orthodox Church and School;

16) to represent the interests of the church and school through the president in all her external relations with outside individuals and authorities;

17) to recommend to the Board, a plenishment for teachers and priests with the approval of the Diocesan authorities;

18) to inspect the congregational school buildings as often as is necessary to assure of the exterior and interior conditions, orderliness, cleanliness; to take care of the health conditions of the school children, that they be well-behaved both in and out of school;

19) to endeavor that the teaching personnel performs its duties and to aid them in all their duties especially in enforcing proper discipline among the school children;

20) to propose that the Board decide on dismissal of children due to disorderliness;

21) to take care that the children be trained in church music and educated in the spirit of the church and Orthodox faith and in Serbian nationalism;

22) to attend school examinations and celebrations and that good students should be awarded for their achieved success, that the school is well supplied with the necessities and to care for the material needs of the school and education.

PRESIDENT OF THE CONGREGATION

Art. 102

The president of the congregation is its lawful representative and substitute before the authorities, both civil and ecclesiastical. He receives and opens congregation correspondence, calls committee meetings, opens and closes them, maintains order and peace at same; proposes matters for discussion, brings them to a vote and announces results. He takes care that at all meetings during discussion, the agenda is strictly upheld. The president has the right to admonish and if necessary, to refuse the floor and to reproach any speaker who digresses from the subject discussed or who speaks on matters irrevelent to the agenda, who does not conduct himself decently, insults established authorities or persons. In cases of disturbance or disorder he shall recess the meeting and if peace and order is not restored after that, he shall adjourn the meeting.

VICE-PRESIDENT

Art. 103

The vice-president shall substitute for the president in all matters should the latter be unable to perform his presidential duties. In the event that the president is absent and cannot preside at a meeting which he called and he has not previously advised the vice-president of same, the vice-president is authorized to preside over the meeting without his consent.

SECRETARY

Art. 104

It is the duty of the secretary to keep the minutes of the board meetings and to conduct all correspondence of the congregation which he signs together with the president. He keeps a record of the activities, preserves the files and issues membership books.

TREASURER

Art. 105

The treasurer, tutors (wardens) and the financial secretary receive according to the inventory, all the real estate and financial property of the congregation and they handle same in accordance with instructions and decisions of the Executive Board and Diocesan authorities and in accordance with the laws of the Diocesan Constitution and the By-Laws of the Church-School. The treasurer is obliged to keep a record of all the income and expenditures of the congregation throughout the entire year. He receives money from the tutors (wardens) and other persons and deposits same in the bank; pays the salaries of the congregations' personnel and all other congregation disbursements. The treasurer, financial secretary and tutors (wardens) submit a report each six months regarding the status of the treasury and congregational property.

FINANCIAL SECRETARY

Art. 106

The duty of the financial secretary is to keep a book of the income and expenditures of the congregation, to receive dues and enter same in the membership book and the book of income, and to submit the monies received to the treasurer. He will keep a record of the membership status and is to remind them on payment of dues.

TUTORS (WARDENS)

Art. 107

The duties of the tutors (wardens) are to be present regularly in church at all church services and ceremonies; to receive money in church from the sale of candles and offerings and other contributions; to exercise care of all necessary items in connection with the church and church rituals. They shall transmit all monies received to the treasurer each Sunday.

PARISH

Art. 108

The Serbian Orthodox Parish is a union of all Serbs, who profess the Eastern Orthdox Faith, live in the said place and vicinity and have one and the same parochial church and within spiritual boundaries belong to one and the same priest. Only one parish can exist on the territory of the said congregation. Change of this status can only be decided by the Diocesan Council.

Art. 109

Each parish has its parish office, its separate vital statistics books and other prescribed parochial records and books, its own parochial seal with the image of the church patron saint in the middle encircled with the following inscription: "Serbian Orthodox Church in N.N.".

Art. 110

The parish seal is safe-guarded by the parish priest and all official records, correspondence, and documents must be issued with that seal affixed. The congregation seal, however, is handled by the president of the congregation.

PRIEST-HEAD OF PARISH AND TEACHERS

Art. 111

Candidates for ordination in priestly order can be persons who completed a theology school, of good behaviour and who possesses all the qualities prescribed by the canons.

Art. 112

The parish priest is considered as such by regular, lawful and permanent appointment and approval for the assigned parish by the Diocesan Bishop; he is the head of the parish and of the parish church; stands for and is responsible for all the work in same.

Art. 113

The parish priest is assigned by the Diocesan Bishop temporarily or is elected as priest by the Church-School Congregation by plenishment and confirmation of the Diocesan Ecclesiastical Court. Temporary parish priests are assigned to those parishes where circumstances demand temporary character as for example the uncertainty that the Church-School Congregation could support a priest permanently or where for some reason, the Church-School Congregation itself is against a permanent priest, or where official Diocesan authorities, for justified reasons, detain the election of a priest.

Art. 114

The post of parish priest is vacated by:

1) death of the parish priest;

2) transfer by request, Ecclesiastical Court decrees, or by call of duty;

3) loss of position on the basis of valid sentence of qualified Diocesan authorities; and

4) regular resignation of position.

Art. 115

The vacant post of the parish priest is filled as soon as possible from the date of vacancy by the publication of plenishment and confirmation by the Diocesan Bishop. On publication of plenishment, the candidates send their application together with the original certificate of completed theology school and successfully completed theology examinations, i.e. with attached "sindjelija"—the gramata of ordination, to the Diocesan Bishop who examines the qualifications and approves those for election who have the necessary qualifications for same.

Art. 116

A priest is elected by the majority vote of the Church-School Congregation and the approved election of the Diocesan Bishop, from among those candidates who within the prescribed time submitted their petitions and certificates.

Art. 117

The Church-School Congregation is not authorized to discharge the priest or to bring another in his place without the knowledge or permission of the Diocesan Bishop.

Art. 118

The priest cannot, resign his parochial duties without the consent of his Diocesan Bishop and the knowledge of his Church-School Congregation. He can leave his parish with the approval of the Diocesan Bishop, only after having given at least a month's notice and after having surrendered the parochial office and church to the congregation in the prescribed manner.

Art. 119

A priest is obligated before leaving the parish, to surrender in utmost accuracy to the parish board, the statistical books, all other parish church books and articles which are the sole property of the Church-School congregation and which are in no respect the property of the individual priests.

Art. 120

The parish priest in his work is under the direct control of his Diocesan Bishop who performs this control personally through his Diocesan organs. Consequently, he is exclusively responsible for all his actions to his Diocesan Bishop and the Diocesan Ecclesiastical Court.

Art. 121

All grievances and accusations by the Church-School Congregation and individuals against the parish priest must be submitted to the Diocesan Bishop for his review and he, according to his own discretion and his designated rights, decides the matter himself or submits it to the Ecclesiastical Court for further action.

Art. 122

The priest is obliged to submit to his Diocesan Bishop and to the Diocesan Ecclesiastical Court all controversial issues with the Church-School Congregation and to obey their decisions.

1) In the event of a disagreement between the parish priest and the church congregation, the issue is decided by the Diocesan Council. Should investigation prove that the priest is guilty, he is to be transferred from the parish or punished by the Ecclesiastical Court.

If found, however, that the Church Congregation is at fault, the Diocesan Council must decide that the priest remain in the parish. However, if the Church Congregation does not submit to the decision of the Diocesan Council, the parish priest is to be transferred and the Church Congregation, because of its guilt remains without a priest until such time that it agrees to accept the same priest;

2) in the event of disagreement between the priest and teacher or between the priest and the congregation; or between the teacher and the congregation; or between the congregation and the priest; or between the congregation and the teacher; or between one or more (groups) full-pledged members of the congregation and board, they, each party composes its Grievance and signed by at least 10-15 full-pledged members of the congregation submits same at the first following meeting of the Executive Board of the congregation where both grievances are alone read, are

then submitted to the president of the congregation who in turn immediately sends them to the Diocesan Council. The registration of mail receipt must be pasted onto the minutes in which a record is made that the grievances were read and sent to the Diocesan Council for decision.

Art. 123

The parish priest must not preform any ritual in another parish without the consent of the priest concerned or without orders from the Diocesan Bishop in exceptional cases.

Art. 124

The Church-School Congregation, however, must not permit any of its members or parishioners to willfully bring in a priest from outside the parish to preform priestly services. In the event that such a member or parishoner transgresses this regulation, the congregation is obliged to take all possible measures to punish him for violation of order and discipline.

Art. 125

The parish priest may take leave only with permission of the Church-School Congregation and Diocesan Bishop. In the case of a one week leave, he finds a substitute for himself, preferably a Serbian priest. In case of a longer leave, he requests a substitute from the Bishop. This question, further, the priest is obliged to regulate mutually with his substitute in accordance with the By-Laws of their respective Church-School Congregations.

Art. 126

The duties of the parish priest are:

1) to perform all the Holy Sacraments and rituals in the church as well as in the parish and always in strict accord with regulations and canons of our Orthodox Church and its rules;

2) to teach his parishoners and youngsters of both sexes, at all opportune times, the principals of faith and christian morals;

3) to preach on every holiday and if possible to speak upon request at public gatherings and socials;

4) to keep church records of births, marriages and deaths and other prescribed parish books in accordance with the instructions of authorized Diocesan authorities;

5) to issue excerpts from these books in official form and with the affixed parish seal, which as such have the validity of official documents;

6) to endeavor that parishoners, if there is no church or school in the parish, erect same within their financial limitations;

7) to endeavor that the church and school interior, church utensils and the area around the church and school are kept clean and orderly.

Art. 127

The duties and the functions of the priest include both the religious-moral as well as the educational spheres, as long as the priest in America by the power of circumstances, is compelled to perform both his priestly and instructive duties simultaneously.

Art. 128

As a teacher, the priest is obliged to conduct his parochial school, if possible twice a week and to teach the children catechism, reading, writing, geography, history and church singing.

Art. 129

In those congregations having more then 150 homes, the priest is not obliged to conduct complete teaching duties but only to teach religion and church singing to children two hours weekly. Such a congregation is required to obtain its own regular teacher.

Art. 130

Teachers are elected by the Church-School Congregations by plenishment, the same as priests and the election is approved by the Diocesan Council. As far as a vacancy of this post is concerned, subsitution, vacation or sick-leave, the same regulations apply as in the case of priests.

Art. 131

a Candidate for teacher can be a person who completed a teaching or other recognized school, is of good conduct, Serbian of Orthodox Faith and has all the qualifications of an educated worker and pedagogue.

Art. 132

The relationship between the priest and teacher must be such as to serve as an example to all members of the Church-School Congregation and parishioners.

Art. 133

All misunderstandings and disagreements which could arise between the priest and the teacher and which they themselves cannot solve, are submitted to the Diocesan Bishop, i.e. to the Diocesan Council for consideration and decision.

Art. 134

The teachers will follow the teaching curriculum and use the textbooks and other instructive methods which the Diocesan Council will prescribe by special rule.

Art. 135

The school work of the priest and the teacher is subject solely to the supervision of the educational supervisor or special representative from the Diocese but never by the Church-School Congregation which is unauthorized to do so.

Art. 136

The Church-School Congregation is obliged to protect the honor and the dignity of its priest and teachers and accordingly must not demand anything in their service or work which would belittle and lower their dignity and authority before our people, the Americans and other outsiders.

Art. 137

The priest is not obliged to walk at funeral processions and parades because it is unpractical as well as dishonorable in the eyes of the Americans and others.

Art. 138

The priest aside from his regular salary agreed upon with the Church-School Congregation, is entitled to the following sources of income:

1) from each excerpt from the record book of births, marriages, and deaths, the sum of $2.00;

2) from the blessing of water and cutting of the Slavski Kolac'' the sum of $2.00;

3) for announcement of marriage bans, the sum of $1.00 for each announcement;

4) for requested prayers, the sum of $1.00;

5) for the blessing of new homes, the sum of $5.00;

6) for requiem (parastos) services, the sum of $2.50 from members and $5.00 from non-members;

7) voluntary offerings from the blessing of homes during the Theophany season.

Art. 139

The priest is obliged to conduct without compensation, the following services and obligations;

1) regular church rituals and services;

2) processions with evening services, carrying of the Cross and the blessing of the Holy water;

3) special general rituals and services;

a) on general national festive days;

b) general thanksgiving services and prayers at the beginning and close of the school year;

c) general thanksgiving services and prayers which are ordered by the higher spiritual authorities, according to need (in times of epidemics or in any other general necessity)

d) memorial services to deserving deceaseds for the Fatherland;

e) twice annually (memorial service) for all deceased as prescribed by the church;

f) blessing of the water on the Day of the Holy Cross and Theophany in the church or in the river.

g) myrrh annointment and confession.

Art. 140

Fees for the main parochial rites: baptism, marriages and funerals are determined by the Church-School Congregation according to the By-Laws of the congregation and the circumstances in the parish. What part, if any, of this fee will go to the priest will be regulated by each individual church congregation in agreement with its priest.

Art. 141

The regular monthly salary of the priest and teacher is determined by the Church-School Congregation for each year in advance in agreement with the Diocesan religious-educational section.

Art. 142

The Church-School Congregation is obliged to place at the priest's disposal, a parish home which is furnished with heat, electricity and telephone. In the event that the congregation does not have a parish home, it assigns to the priest an agreed allowance in lieu of the parish home.

Art. 143

The Church-School Congregation cannot decrease the salary of the priest and teacher without the consent of the Diocesan Bishop and Diocesan Council.

Art. 144

In case of the illness of the priest or teacher and the physician forbids him to leave his sick-bed, the Church-School Congregation is obliged to pay his wages for the month in which case the Diocesan Bishop names a substitute. The priest substitutes gives all the additional income from the rites and sacraments to the congregation of the ill priest. If the illness is prolonged for more then one month, the congregation stops his wages and informs the Diocesan Bishop of same, i.e. The Diocesan Council, who in turn decide the question of replacing the ill priest.

In the event of the death of the priest, i.e. teacher, the Church-School Congregation cannot deprive his family from remaining in the parish home with furnished utilities for a period of one month.

Sixth Part

PROPERTY AND FUNDS

A) I DIOCESAN PROPERTY

Art. 146

Under the heading of Diocesan property is included that property which is owned by the Diocese and under Congregation property is included that property owned by the Church-School Congregation.

Art. 147

The property of the Church-School Congregation in individual colonies belongs exclusively to the said congregation without Diocesan rights to same. Only in the event of request by the membership of said congregation does the Diocese have the right to control same.

Art. 148

Exact inventories must exist for all of the above mentioned property, composed by organs authorized to supervise them, one copy of which should be sent to the Diocesan Council for safe-keeping. The inventories must be corrected and in accordance with the actual status of the property brought up-to-date at the end of each year.

Art. 149

The above mentioned property and its assets are to serve exclusively for the purpose designated by the statutes of this Constitution and cannot be used for any other purpose.

Art. 150

Real estate must be registered with the land registrar; the diocesan in the name of the Diocese and the congregational in the name of the Church-School Congregation who are the owners.

Art. 151

Houses, churches and other buildings must be insured against fire damage.

Art. 152

The authorities handling the above mentioned properties must always maintain same in good and usable condition and are responsible for any damage which might occur at their fault, carelessness or negligence and will be responsible by law and in accordance with the decision of the Diocesan Council.

2. CHURCH-SCHOOL CONGREGATION PROPERTY

Art. 153

The church-school Congregation property is all that property without exception acquired by individual congregations with their material means. The Church-School Property serves the church, school, educational and humanitarian purposes of said congregation and particularly in the

erection, maintenance and decoration of the local churches, for supplying same with the essential church items, books, icons, vestments, and other items required by the church for the erection and maintenance of parish homes, churches, and for the salaries for local priests, teachers and other church and school personnel according to the purposes for which the said properties are dedicated.

Art. 154

Direct supervision of the Church-School Congregation on property is made by the Church-School Congregation, and they serve for the church, school and religious-educational aims of the individual congregations and higher control is made by the Diocesan Council, i.e. Fnancial Executive Board.

B) I DIOCESAN FUND

Art. 155

Under the heading of Diocesan Fund are all the funds and assets which the Serbian people of the entire Diocese, individually or collectively through their church-school congregations and other various societies and organzations should establish, increase and dedicate to the mutual necessities of its church and school for the religious and educational aims of the entire Diocese. All the income from the Diocesan property and various Diocesan institutions belong to this fund. The Diocesan funds are supervised by the Diocesan Council through its Financial Board-Section which should be constituted by the first regular meeting of the Diocesan Council.

Special church-school funds dedicated exclusively for the school and educational necessities, are supervised by the Diocesan Religious-Educational Board with a separate treasury.

Art. 156

All real estate and personal property of the St. Sava Monastery in Libertyville as well as the other Serbian Monasteries should they be organized, is supervised by the monastery's administration under the direct control of the Diocesan Bishop.

Art. 157

The Diocesan Council is obliged to set up a budget at its first meeting which would stand to support the entire Diocese and to appropriate sufficient means to realize same.

Art. 158

The income of the Diocesan fund will be obtained primarily through assessments and voluntary donations of all the clergy, Serbian Orthodox Congregations and organizations.

Art. 159

The Church-School Congregations are obligated morally to assume their monthly share of the regular maintenance of the Diocese, which will be assessed in accordance with the population and possibilities of said congregation, and they will, on the other hand, in accordance with their circumstances offer the best possible manner to meet with their obligations.

Art. 160

The Diocesan Council shall appeal to all Serbian benefactors and benevolent federations, societies and organizations, to designate a regular monthly contribution per member to the Diocesan fund for the maintenance of the Diocese.

Art. 161

The Diocesan Council will designate specific persons periodically who will be authorized to collect voluntarily donations in designated territories for the Diocesan fund.

The income from all celebrations at the monastery in Libertyville belong to the monastery in Libertyville.

Art. 162

The Diocesan Council will endeavor to open, as soon as possible, a Diocese supply store which will provide items for sale such as religious and educational books, candles, incense and all other necessities, all the income from same to be entered into the Diocesan funds. All income from Diocesan economy will be included in the Diocesan fund, when it is sufficiently developed.

2. SEPARATE FUNDS AND PLEDGES

Art. 163

Under the heading of Separate Funds are understood all those funds which in time private individuals or the Diocesan Council itself could organize and dedicate to the separate religious and educational aims of the Diocese as a whole or for the individual Diocesan institutions and church-school congregations.

Under Pledges are to be understood all private bequests which are entrusted to the Diocese for handling and with special designated purposes.

The Diocesan Council is obliged to prescribe a separate rule for the handling of same at its first meeting following the organization of a separate fund or receipt of a bequest.

All separate Funds and Bequests serve exclusively for the purposes designated and are not to be used for any other purpose.

If the purpose for which the specific fund or bequest was established is discontinued, The Diocesan Council shall suggest to the Diocesan Assembly that all these funds be used for other religious-educational aims.

All bequests are made by special wills in which detailed aims are outlined as well as the manner and useageof same.

The will is to be composed and submitted in triplicate, one copy of which remains with the benefactor, i.e. his inheritors; one copy with the organ handling the bequest and one with the Diocesan Council.

The Diocesan Council is obliged to publicize monthly statements of the status of not only the general Diocesan Fund, but the status of the Separate Funds and Bequests as well.

PLAINTIFFS' EXHIBIT 31

Holy Synod of Bishops of the
Serbian Orthodox Church
No. 3602/min. 653
October 22, 1968
In Belgrade

EXCERPT

From the Minutes of the meeting of the Holy Assembly of Bishops for 1939.

In these Minutes it is recorded that the meeting of the Holy Assembly of Bishops was held on May 11/24, 1939 in Belgrade.

From the Minutes it can be seen that at this meeting there were several subjects to be decided.

Among other things in the Minutes in the appropriate place this also is recorded:

"Minutes No. 132

Holy Assembly No. 69

His Grace Bishop Nektarije, as reporter of the Legislative committee reports on the amendments to the Constitution of the Serbian Orthodox American-Canadian Diocese.

The motion of the American-Canadian Bishop Damaskin is given consideration regarding changes and amendments to the Constitution of the Serbian Orthodox Diocese of America-Canada.

Upon study the committee established that Bishop Damaskin of America-Canada submitted to the Holy Synod of Bishops two exhibits: No. 128 of January 18th, 1939 and No. 131 of January 19th, 1939. In these exhibits are mentioned, on the basis of the decisions of the Church-National Assembly (Sabor) of the American-Canadian Diocese of 1931 and 1938 all the changes and amendments which should be entered in the Constitution, and the necessary explanations and justifications are given.

His Grace Bishop Damaskin reads a report on conditions he found in the American-Canadian Diocese, and how it is necessary that Constitutional order be established. The proposed changes have passed through the Synodal meeting and they are not contradictory to the Constitution of the Serbian Orthodox Church in Yugoslavia.

The Legislative committee upon studying the remarks and hearing of the justifications of the same from His Grace Bishop Damaskin of America-Canada, recommends the following decision to the Holy Assembly of Bishops:

"To adopt the changes and amendments as set forth in the act of His Grace Bishop Damaskin of America-Canada officially in Diocese No. of 6/19 of May, 1939, and to authorize the Holy Synod of Bishops to publish the Constitution of the American-Canadian Diocese with the accepted changes and amendments in the official paper of the Serbian Orthodox Church."

The Holy Assembly of Bishops decides:

To adopt the recommendation of the Legislative committee.

It is further noted that with the adoption of the Constitution for the Serbian Orthodox diocese of America-Canada that the question of the Bishop's See is settled. The Residence of that Diocese is in Chicago."

That this excerpt from the indicated Minutes is faithful to its original, is certified and attested unto by

November 9th, 1968 — Supreme Secretary
Belgrade — Holy Synod of Bishops
The Patriarchate — Mladen Mladenovich (signature)
(SEAL)

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 32

Holy Synod of Bishops of the
Serbian Orthodox Church
No. 3602/min. 653
October 22, 1968
In Belgrade

EXCERPT

From the Minutes of the meeting of the Holy Synod of Bishops for 1935.

In these Minutes it is noted that a meeting of the Holy Synod of Bishops was held on the 14/1 December, 1935 in Sremski Karlovci.

From these Minutes it can be seen that there were several subjects to be decided.

Among other things in the Minutes in the appropriate place this is also noted:

"Min. no. 1946

Syn. No. 7274

Zivojin Ristanovich, secretary of the American-Canadian Diocese reports by telegram that his Grace the American-Canadian Bishop Mardary departed this life in the Lord on December 12th of this year.

Upon due consideration the Holy Synod of Bishops renders this decision:

His Holiness and the present members of the Holy Synod of Bishops by standing and with a short prayer pay respects to the departed in the Lord Bishop Mardary which is hereby noted in the minutes.

To express by telegram sympathies to the American-Canadian Diocese relative to the death of the blessed-in-repose, Bishop Mardary.

To inform by telegram all diocesan bishops of the death of the blessed-in-repose Bishop Mardary and request that they offer prayers to God for the salvation of his soul.

In accordance with article 64, pt. 22 of the Church Constitution, and in connection with article 13 of the Constitution of the American-Canadian Diocese request of His Holiness Patriarch Varnava to assume governing the American-Canadian Diocese until an administrator be appointed and to inform the Ecclesiastical Court of the American-Canadian Diocese of the same."

That this excerpt from the indicated Minutes is faithful to its original, is certified and attested unto by

November 9, 1968 — Supreme Secretary
Belgrade — Holy Synod of Bishops
The Patriarchate — Mladen Mladenovich (Signature)
(SEAL)

(translator's certification omitted)

PLAINTIFFS EXHIBIT 33

Holy Synod of Bishops of the
Serbian Orthodox Church
No. 3602/min. 653
October 22, 1968
in Belgrade

EXCERPT

From the Minutes of the meeting of the Holy Assembly of Bishops for 1936.

In these Minutes it is noted that a meeting of the Holy Assembly of Bishops was held on the 8th day (21) of June, 1936, in Sremski Karlovci.

From the Minutes it can be seen that there were several subjects to be decided.

Among other things in the Minutes in the appropriate place this also is noted:

"Minutes 150

Holy Assembly No. 88

That the vacant American-Canadian diocese not be filled until the next regular session of the Holy Assembly of Bishops, but that during that time His Grace Bishop Irinej (Djordjevic) of Dalmatia administer this diocese."

That this excerpt from the indicated Minutes is faithful to its original, is certified and attested unto by

November 9th, 1968 — Supreme Secretary
Belgrade — Holy Synod of Bishops
The Patriarchate — Mladen Mladenovich (signature)
Archpriest
(SEAL)

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 34

The Holy Synod of Bishops of the
Serbian Orthodox Church
No. 3602/min. 653
October 22nd, 1968
In Belgrade

EXCERPT

From the Minutes of the meeting of the Holy Assembly of Bishops for 1938.

In these Minutes it is noted that a meeting of the Holy Assembly of Bishops was held on the 9/22 day of June, 1938 in the Patriarchal palace in Belgrade.

From the Minutes it can be seen that there were several subjects to be decided.

Among other things in the Minutes in the appropriate place this also is noted:

"Minutes No. 126

His Holiness the Patriarch sets forth the agenda for the filling of the American-Canadian Diocese. Relative to this His Holiness in behalf of the Holy Assembly of Bishops turns to His Grace Bishop Damaskin of Mukacevo Prjasevo and beseeches him to accept the governing of the American-Canadian Diocese, having in mind his successful work in the Carpatho-Russian diocese and hoping that with such work he would succeed in completing the organization also in our American-Canadian Diocese.

His Grace Bishop Damaskin states that it is his desire to return from a foreign country to serve in his own homeland, however if it be God's will and the will of the Holy Assembly of Bishops other than what he thought, then he cannot oppose it.

The Holy Assembly of Bishops unanimously elects as Bishop of the American-Canadian Diocese His Grace Bishop Damaskin, heretofore Bishop of Mukacevo-Prjasevo."

That this excerpt from the indicated Minutes is faithful to its original, is certified and attested unto by

November 9th, 1968
Belgrade
The Patriarchate

Supreme Secretary
Holy Synod of Bishops
Mladen Mladenovich (signature)
Archpriest

(SEAL)

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 35

Holy Synod of Bishops of the
Serbian Orthodox Church
No. 3602/min. 653
October 22, 1968
In Belgrade

EXCERPT

From the Minutes of the meeting of the Holy Synod of Bishops for 1939.

In these Minutes in which it is noted that the meeting was held on November 25, (8.XII) 1939 in the Patriarchal palace in Belgrade, this also is noted:

"Minutes No. 81

His Holiness the Patriarch moves that for the vacant American-Canadian Diocese a Bishop be elected, and makes the motion that His Grace the Bishop of Morava Dionisije, vicar bishop to His Holiness, be unanimously elected as the Bishop of America and Canada.

The Assembly unanimously elects His Grace Bishop Dionisije of Morava and vicar Bishop of His Holiness as Bishop of America-Canada."

That this excerpt from the indicated Minutes is faithful to its original, is certified and attested unto by

November 9th, 1968
Belgrade
The Patriarchate

Supreme Secretary
Holy Synod of Bishops
Mladen Mladenovich (signature)
Archpriest

(SEAL)

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 36

Holy Assembly of Bishops of the
Serbian Orthodox Church
AS No. 21C/minutes 81
December 8/Nov. 25, 1939
Belgrade

TO THE HOLY SYNOD OF BISHOPS

The Holy Assembly of Bishops in its session under the above reference number and date has elected the Right Reverend Sir Dionisy Suffragan Bishop of Moravitza for the American and Canadian Bishop, regarding which it is our honor to inform Holy Synod of Bishops with our petition for the further action within your jurisdiction.

ARCHBISHOP METROPOLITAN
AND SERBIAN PATRIARCH
Gavrillo

PLAINTIFFS' EXHIBIT 37

THE HIERARCHAL OATH

Of the unworthy one among the archimandrites, Dionisije

FIRST QUESTION:

Wherefore art thou come, and what doest thou ask of our meekness?

ANSWER:

Chirotony unto the grace of the Bishop's office, the Most Reverend Sirs!

SECOND QUESTION:

How believest thou?

ANSWER:

I believe in one God, the Father Almighty, Maker of Heaven and Earth, And of all things visible and invisible;

And in one Lord, Jesus Christ, the Only-begotten Son of God, begotten of the Father before all worlds; Light of Light, Very God of Very God, Begotten, not made; Being of one Essence with the Father; By whom all things were

made; Who, for us men, and for our salvation, came down from heaven, And was incarnate by the Holy Spirit of the Virgin Mary, And was made man. And was crucified, also for us, under Pontius Pilate, and suffered and was buried. And the third day he rose again, according to the Scriptures. And ascended into heaven, And sitteth on the right hand of the Father. And he shall come again with glory to judge both the quick and the dead; whose kingdom shall have no end.

And in the Holy Spirit, the Lord, the Giver of Life, Who proceedeth from the Father, Who with the Father and the Son, together, is worshipped and glorified, Who spake by the Prophets. And in the One Holy Catholic and Apostolic Church. I acknowledge one Baptism for the remission of sins; I look for the resurrection of the dead; And the Life of the world to come. Amen.

THIRD QUESTION:

Reveal unto us more elaborately how thou believest in regard to the properties of the Three Persons of the Incomprehensible Godhead?

THIRD QUESTION:

ANSWER:

I believe in One God in Three Persons; The Father and the Son and the Holy Spirit, of which one should think of as separate Persons only as the personal properties go; but as being indivisible in the substance. One and the self-same is the whole Trinity and it is one whole unity; unity in substance and in nature. But it is the Trinity in regard to the properties of the persons, to-wit: Of the Father and of the Son and of the Holy Spirit. The Father is not born and has no beginning, as he has his existence from no one, but only from Himself.

I believe, also, that the Father is the source of the Son and of the Spirit; Of the Son through the begetting, and

of the Holy Spirit through the procession. The Father begets the Son and issues forth the Holy Spirit; and the Son is begotten from the Father, and the Holy Spirit proceeds from the Father. And, so, I venerate one beginning and I profess the Father as being the Only Source of the Son and of the Spirit.

I say, also, that the Son's origin is above time and space; not as the beginning of the creations; as of the one that was created first; namely, not as a first-created being which is supreme above all (other beings) by the ancientness (of its origin) God Forbid—because that would be the vain talk of the Arian impiety; (it would be) what the infamous Arius blasphemously used to teach, that the Son be a creation and, so, the Holy Spirit. I do say that the Son has the origin of the One who has no beginning; (being) co-eternal (with Him) and, so is the Holy Spirit. Neither Father from the Son is separated, neither Son from the Spirit, neither Holy Spirit from the Father; but, wholly, the Father is in the Son and in the Holy Spirit and, wholly, the Son is in the Father and in the Holy Spirit, and wholly, the Holy Spirit is in the Father and in the Son. Because they are united and indivisible uniquely. I profess, also, that the Word of God, co-eternal with the Father, above the time, incomprehensible, unlimited, descends down to our nature and accepts the degraded (nature of) man from the pure and virginal blood of the All-Chaste, pure, Virgin, in order that he may grant to all the world salvation and the grace, because of his loving kindness; while being God, he suffered by his body, but in no manner in his divinity. He then died, accepting the death on our behalf. But his divinity at that time was not subject to the passions. After his resurrection from the dead, he ascended into heaven and sat at the right hand of the Father. When I say, "at the right hand of the father," I do not mean to describe the

place, but under the union at the right hand of God. I understand that the unoriginate and pre-eternal glory which the Son had before His incarnation, He possesses the same, also, after the incarnation.

Because His holy body is worshiped together with his divinity by a becoming worship, it is not as something that the Divine Trinity has gotten as having been added to the Holy Trinity by the additional growth—God Forbid—because the Trinity remained all the time a Trinity and because after the union with the Only begotten One it (the body) remained inseparable from Him and His Holy Body still remains with Him forever. With it (The Body) He will come again to judge both the living and the dead, the righteous and the sinners. The righteous ones, he will reward for their faith and virtuous works by the Kingdom of Heaven, for the sake of which they have struggled here, and unto the sinners the eternal vexation and the fire of the Gehenna, which ends not; which may God grant all to escape and to obtain the promised blessings in Jesus Christ, our Lord!

FOURTH QUESTION:

Reveal unto us more elaborately how believest thou in the incarnation of the Hypostatic Son and the Word of God?

ANSWER:

I believe in one God, the Father Almighty, Maker of Heaven and Earth, and of all things, visible and invisible; For he is without beginning, unbegotten, and without source, but is Himself the natural beginning and cause both of the Son and of the Spirit.

And I believe in His Only begotten Son, begotten of him without leaving Him and outside of the time; being of one Essence with Him, through whom all things were made.

And I believe in the Holy Spirit, who proceedeth from the same Father, and with Him is glorified as co-eternal, being of one essence with Him, and equal in glory, and enthroned together with Him, the Co-Author of Creation.

I believe that One, of the same super-substantial and life-giving Trinity, the Only begotten Word, came down from heaven, for us men and for our salvation, and was incarnate by the Holy Spirit of the Virgin Mary, and was made man; that is to say, was made perfect man, yet remaining God, and though nowise changing his Divine Essence, because of His participation in the flesh; neither being transmuted into anything else; but without mutation assuming man's nature: He therein endured passion and death; being in His Divine Nature free from every passion. And on the third day, He rose again from the dead; and ascended into heaven, and sitteth at the right hand of God and the Father.

And I believe, with regard to God, those traditions and narrations of the One Catholic Orthodox and Apostolic Church. Furthermore, I confess the one Hypostasis of the incarnate word; and I believe and proclaim that Christ is One and the same, while in two natures after His incarnation, preserving what He has been and that from what He originated. Therefore, also, I honor two wills, as each nature retains its own will and its own action. I honor, relatively, but not as in the way of worship, the Divine Icons, and I reverence them as worthy of adoration; (the Icons) of Christ and of All-Undefiled Mother of God and of all the Saints, addressing to the originals of those (Icons) the adoration shown to them.

I reject as ill-advised those who thing contrariwise; I anathematize Arius in those who are of his mind and who share his infamy which is void of truth. Macedonius (also) and those who together with him rightfully are called

Pneumatomachians; Nestorius, likewise, and the rest of the archheretics and those of the same mind with them; I reject them an anathematize them and clearly I pronounce in a loud voice; Anathema to all Heretics; wherever they be, to all heretics, anathema!

And I literally and truly glorify our Sovereign Lady, Mary, the Birthgiver of God, as having born in the flesh one of the Trinity, Christ, Our God; Would she be unto me a Helper! Protectress, and a Defender all the days of my life. Amen.

FOURTH QUESTION—continuation:

Reveal unto us, as well, how thou holdest the Canons of the Holy Apostles and of the Holy Fathers?

ANSWER—continuation:

In addition to this, my Confession of the Holy Faith, I promise to observe the Canons of the Holy Apostles and of the Seven Ecumenical and of the pious Regional Councils, which were made into the laws to safeguard the proper order; And the rules and the Holy Constitutions which have been formulated during the times and years by those who have truly stood for the Holy Eastern Orthodox Faith; those, as well, I will observe firmly and will not transgress against them till the end of my life. I witness that I promise to do so. And all what they accepted, I will accept as well, and what they rejected I, too, reject.

And, also, I promise to preserve the peace of the Church and firmly to safeguard and zealously teach the people entrusted to me and not to devise anything whatsoever which is contrary to the Orthodox Eastern Christian Faith all the days of my life; And that I will, in everything, always be obedient to the Most Holy Assembly (of Bishops) and to the proper authority, and with the Right Reverend Bishops, my Brethren, I will be in accord in everything and, jointly, with them I will be submissive to the Divine Laws

and the Holy Canons of the Holy Apostles and of the Holy Fathers; and that I will wholeheartedly cherish towards them spiritual affection and will regard them as my Brethren.

I promise to rule the flock entrusted to me in the fear of God and in a God-loving way, and to guard them from Latinism and all other heresies by teaching them with every heartfelt zeal.

And, also, I declare in this, my writing, that, neither by the promise, nor by the gift of gold or of silver, have I attained this ministry; neither did I give to anyone anything in order to obtain this office; neither did I promise to give to anyone anything; but, without any pay, I attained it by the election of the Most Holy Bishops' Assembly of the Serbian Orthodox Church, and by the consent of His Majesty, the pious Sovereign and King Peter II; while those who obtained (this office) for money I deem to be fit for ex-communication, likewise, as Simon, the Magician, who wanted to obtain this Grace for money.

In addition, I promise, also, to do nothing through constraint, whether through the coercion on the part of powerful persons or by any multitude of the people, even though they should command me, under pain of death, to do something contrary to the Divine and Holy Canons; nor will I celebrate the Divine Liturgy in another Diocese of any Metropolitan, Archbishop or Bishop, outside my own; nor to exercise any other priestly function without the permission of the Bishop of that Diocese, outside of the Diocese which has been given to me by the Most Holy Bishops' Assembly. And, wherever I might happen to be, I will not ordain either a Priest or a Deacon, or any other ecclesiastic in another Diocese, nor will I receive such into my Diocese without the letters of dismissal from their own Bishops.

And, also, I promise, when the Most Holy Synod pleases to call me to attend any Council with by Brethren Hierarch, I will attend the Council without any excuse or word. And should even some of the Potentates or a throng of people try to stop me, I will not be disobedient to the orders of the Most Holy Synod.

Furthermore, I promise not to introduce any alien customs in the Church traditions and rites, especially the newly introduced ones by the Latins, but I will guard the traditions and all the rights undistorted and in one accord with the Holy Eastern Orthodox Church, and, in unanimity, with the most Holy Assembly (of Bishops) and with the most Holy Patriarchs who are the guardians and the governors of the Eastern Piety.

And, I am not to ordain at one Liturgy the Presbyters and Deacons, in each of the orders, by two, three, or more; but at each Liturgy (only) one Presbyter (only) and one Deacon will I ordain; and at the Liturgy of the Pre-Sanctified Gifts—only one Deacon, according to the rite of the Holy Eastern Church, and as it is laid out in the expositions of the Holy Patriarchs and who are with them, the Orthodox Hierarchs.

Furthermore, I believe, and in wisdom I hold that at the Holy Liturgy the change into the body and blood of Christ takes place, as the Eastern and our own Serbian teachers of old taught, by the descent and action of the Holy Spirit, through the Hierarchal or Priestly Epiclesis (invocation) through the words of the prayer, which is addressed to God, the Father; "And make this bread to be the worshipful Body of Thy Christ"; and so forth . . .

Furthermore, I promise and I give my oath, that to His Royal Majesty, our Pious Sovereign, and King, Peter II, I will remain faithful to the end of my life.

In addition to this, I promise that I will not, through my own passionate will or because of any quarrels either with myself or with my subordinates, anathematize or ex-communicate from the Sacraments of the Church, anyone, personally or with his household; except the one who proves himself to be a public transgressor and one who destroys the Divine Commandments; or the heretics, opposed to the Church, and that (I will do) according to the Word of Christ, after three warnings. The one who remains disobedient and unrepentant I will anathematize and ex-communicate, him only, and not his household.

With the opponents of the Holy Church (I will) deal reasonably, uprightly and gently, in accordance with St. Paul, as the servant of God, must not strive, but be gentle unto all men, apt "to teach, forebearing, and one who with meekness admonishes the disobedient"; so, if peradventure, God will give them repentance and the understanding of the truth.

The Monastics, I will endeavor that they live according to the rules and constitutions established for them, so that they do not wander from one monastery to another, neither they enter the homes of laity without my knowledge and written consent, except if it happens, in case of same emergencies, that they would respond to the request or, in case of need, to extend help to the others.

I will not build or allow others to build Churches needlessly so that they should not become redundant for the lack of users.

Likewise, I will not multiply above the proper need Priests and Deacons or other ecclesiastics, for the sake of some impure gain; neither for the sake of some inheritance; but only for the sake of shepherding of the people, and for the sake of the real needs of the Holy Church.

And, also, I promise that the whole flock entrusted to me I, personally, will visit every year, or at least once in two or three years, according to the Apostolic Custom, and I will supervise them. I will not make visits for the sake of any lucrative gain or honor, but as an apostle of the Lord; (to see) how do the faithful fare in the faith and in the good deeds or righteousness, and, especially, the clergy. And, I will zealously watch over them, will teach and warn, so that there will be no schisms, superstitions or any religious activities which are not acceptable to God; so that the habits and customs which are contrary to the Christian Piety should not become a detriment to the way of life that behooves Christianity;

In the worldly affairs and acts I will not enter, except if any public unrighteousness be committed. In respect to that, I will have, first, to instruct and, later, to defend the weak. But I will make it (my intervention) short.

I promise, as well, and I profess myself to be dutybound to safeguard ceaselessly all that is provided by the Constitution of the Holy Orthodox Serbian Church and by the rest of the decrees and ordinances. I will bear in mind always, what is the truth and the just. All that, I will do conscientiously, not as a slave of Hypocrisy, not as one who is sick, enmity, envy, stubbornness, gainfulness, or plainly as one who is enslaved by any passion; but with the fear of God, always having in my mind the inevitable Judgment with the sincere Love of God and of my neighbor, having asked the ultimate goal of all my thoughts, words and actions, the Glory of God and the salvation of the souls of people, and the building up of the Church, not asking, "what is my own," but "what is of the Lord, Jesus?"

I swear, by the Living God, that I will always keep in my mind His awesome Word: "Accursed be everyone who does the work of God negligently." In every action of this

office, I will behave as in the business of God, without laziness, with every zeal, to my utmost might, and I will not harbor my ignorance, but should I not be sure in my mind in regard to anything, I will endeavor to ask for enlightment and knowledge from the Sacred Scriptures and Canons and the Councils, and from the consensus of the ancient great Teachers (of the Church).

Should I transgress against whatever I promised here, or should I be disobedient to the Divine Ordinances and Order of the Eastern Orthodox Church, or to the Most Holy Assembly (of Bishops) I, personally, will become a schismatic and should I make the Diocese entrusted to me in any manner to become disobedient to the Most Holy Assembly (of Bishops), May I, in that case, be defrocked of my rank and divested of the (episcopal) authority without any excuse or gainsay, and (may I) become an alien to the heavenly gift which is being given unto me by the Holy Spirit through the Consecration of the Laying of Hands.

Furthermore, I swear by the omniscient God that what I am promising here I do not interpret differently in mind than I expressed it by my lips; (not differently) than in the meaning and understanding as the words written herein are understood by those who read them and by those who hear them.

All, what I have promised today in words, I am obliged to do in deeds until the last breath, for the sake of future blessings, I confirm with my Oath: May God, who knows hearts, be a witness of my promise, that it is true, though it might not be true, and if it is not according to my conscience, may be he unto me a just avenger!

In my sincere and heartfelt bearing and actions, may Our Savior, Jesus Christ, be my Helper! May to Him, together with the Father and the Holy Spirit, be Glory and the Power and the Honor and Worship now and ever and unto the ages of ages. Amen.

The Unworty One among the Archimandrites,
the Abbott of the Imperial Abbey, Visoki Dechani and the Principal of the Monastic School,
Dionisije Milivojevich,
Professor

Because the Most Holy Hierarchic Assembly of the Serbian Orthodox Church has elected me, having deemed me to be worthy for such an office, and His Majesty, our Pious Sovereign and King, Peter II, of Yugoslavia, has been pleased to confirm that election, I thankfully accept and not a bit speak against thereof.

R
(resolved)
Keep this in the custody
of the Archives of the
Holy Bishops' Synod.
8/21 of August, 1938
in Belgrade.

The day of the chirotony
into the episcopal rank
of Dionisije,
the Vicar Bishop of Moravica

Archbishop Metropolitan
and Serbian Patriarch
+Gavrilo
The Holy Bishops' Synod
of the Serbian Orthodox Church,
Reference Number:4949,
29/16 of August, 1938,
Belgrade.

(translator's certificate and notarization omitted)

PLAINTIFFS' EXHIBIT 38

THE HOLY SYNOD OF THE
SERBIAN ORTHODOX CHURCH
No. 331
January 29, 1969
In Belgrade

EXCERPT

From the Minutes of the Meeting of the Holy Assembly of Bishops for 1951.

His Grace the American-Canadian Bishop Dionisije, by an Act of May 5, 1951, submitted a report on the state of the Diocese entrusted to him, of his work, the work of the clergy of that Diocese, and the Church-school congregations.

The Report is written on 13 pages typed on typewriter.

On page 12 Bishop Dionisije suggests and pleads with the Holy Assembly of Bishops to decide:

1. That the territory of all South America be officially annexed to the ecclesiastical jurisdiction of the American-Canadian bishop;

2. That the title of the Diocese be amended on two points: The Serbian Orthodox Church in the United States of America, Canada, and South America;

3. That a decision be made in principle that he be allowed as a bishop the election of at least one Vicar-bishop.

This report of His Grace Bishop Dionisije was before the Holy Assembly of Bishops for review and decision, and concerning the same the Holy Assembly of Bishops at its regular meeting, held June 11 (May 29), 1951 in the Patriarchial palace in Belgrade, rendered the following decision:

"Holy Assembly No. 26 and 37

Minutes 56.

1. Since adequate data is lacking on conditions in this Diocese, as also concerning the Diaspora, which could be submitted to the Holy Synod of Bishops by a contemplated Delegation, the proposals of the American-Canadian Bishop Dionisije cannot for now be adopted concerning changing the Constitution, concerning expanding the territory of the Diocese, and concerning the election of a Vicar-bishop; however the question of administering the Diaspora is left to His Holiness the Patriarch in accordance with the Constitution, article 55, point 12."

That this excerpt from the designated Minutes is faithful to its original, is affirmed and certified by

January 29, 1969 — Supreme Secretary
Belgrade (SEAL) — Holy Synod of Bishops
The Patriarchate — S/Mladen Mladenovich
Archpriest

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 40

THE HOLY SYNOD OF THE
SERBIAN ORTHODOX CHURCH
No. 331
January 29, 1969
In Belgrade

EXCERPT

from the Minutes of the meeting of the Holy Assembly of Bishops for 1951.

In these Minutes in which it is recorded that the meeting was held June 1 (May 19), 1951 in the Patriarchal palace in Belgrade, this is recorded:

"Holy Assembly No. 30

Minutes 6.

His Holiness the Serbian Patriarch Vikentije reads the act of His Grace the American-Canadian Bishop Dionisije in which he reports that because of illness he cannot attend this annual session of the Holy Assembly of Bishops; he sends his greetings and wishes harmonious work to the Holy Assembly of Bishops and entrusts his vote to His Holiness the Patriarch, in the event that new bishops would be elected or if there would be generally voting on any other subjects.

The Holy Assembly of Bishops decides:

The Act of His Grace the American-Canadian Bishop Dionisije be taken into acknowledgment."

That this excerpt from the designated Minutes is faithful to its original, is affirmed and certified by

January 29, 1969 Supreme Secretary
Belgrade (Seal) Holy Synod of Bishops
The Patriarchate S/ Mladen Mladenovich
Archpriest

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 41

HOLY SYNOD OF BISHOPS OF THE
SERBIAN ORTHODOX CHURCH
No. 331
January 29, 1969
In Belgrade

EXCERPT

From the Minutes of the Holy Assembly of Bishops meeting for 1952.

In these Minutes in which it is recorded that the meeting was held May 16th (3), 1952, in the Patriarchal palace in Belgrade, on page 6, Holy Assembly No. 28, 42 and 54/minutes 8, this is recorded:

"Upon the President's call, the secretary reads

1. The letter of His Grace Bishop Nicholai of Zhica of May 4, 1952, in which he reports that for known reasons he cannot come to this regular session of the Holy Assembly of Bishops and that he entrusts his vote to the administrator of the Diocese of Zhica His Eminence Metropolitan of Skoplje Josif;

2. The letter of His Grace Bishop Irinej of Bachka, Diocese No. 266, of May 10th (April 27), 1952, by which he reports that because of ill health he cannot come to this regular session of the Holy Assembly of Bishops and that he entrusts his vote to His Grace Bishop of Ras-Prizren Vladimir, as his classmate at the Moscow Spiritual Academy; and

3. The letter from His Grace the American-Canadian Bishop Dionisije of April 30th, 1952, in which he reports that 'because of gall bladder illness' he cannot attend this regular session of the Holy Assembly of Bishops and that he entrusts his vote to His Holiness the Serbian Patriarch Vikentije.

Upon listening to the readings,

The Holy Assembly of Bishops takes into acknowledgement the contents of these three letters."

That this excerpt from the designated Minutes is faithful to its original, is affirmed and certified by

January 29, 1969 Supreme Secretary
Belgrade (SEAL) Holy Synod of Bishops
The Patriarchate S/Mladen Mladenovich
Archpriest

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 42

HOLY SYNOD OF BISHOPS OF THE
SERBIAN ORTHODOX CHURCH
No. 331
January 29, 1969
In Belgrade

His Grace the American-Canadian Bishop Dionisije, by his Act of December 9, 1956, under Protocol Books of Acts No. 46, submitted to the Holy Synod of Bishops of the Serbian Orthodox Church in Belgrade and to His Holiness, the following:

"Your Holiness,

In loyalty towards my Patriarchate and Your Holiness we submit the enclosed regulations for review and approval, to wit:

By-laws of the Pension Fund of the clergy of this Diocese;

By-laws of the Serbian St. Sava Charity Home;

Regulations concerning the Diocesan Church-National assembly;

Regulations concerning the Diocesan Council;

Regulations concerning parochial and Sunday Schools:

Regulations concerning properties and funds;

Regulations concerning monasteries.

We submit this in accordance with article 12 of the Constitution of this Diocese, second paragraph, to the Holy Synod of Bishops for approval, information and review.

That which the Holy Synod of Bishops considers that should be approved, we pray it be approved, what it considers should be accepted for information, we pray it be accepted, and what needs to be only for review, let it be received.

The Church-National Assembly this year was very fruitful in its work, and the Ljoticev group attempted to strike a blow, but for now did not succeed.

We are sending a copy each of the By-laws of the Pension Fund and the Charity Home which the Holy Assembly of Bishops may keep in its archives, and the remaining regulations we are sending in duplicate with the request that a copy of each be returned to us with the eventual approval. This I have considered as necessary because and in order that nothing in the Constitution of this Diocese be changed without the knowledge and approval of the Holy Synod, for who knows what all may come later, so let it be known here among our people: that the Holy Synod of Bishops has approved the same or has taken them into favorable acknowledgment, so that every future change or amendment to the Constitution must again be submitted to the Holy Synod of Bishops for approval, that the 'rear not overtake the first' (wheels) in some self-serving later action. That is why I plead that this be legalized and approved, so that in the future everything be so legalized and approved in that order.

Faithful to Your Holiness
American-Canadian Serbian
S/ +Bishop Dionisije

PLAINTIFFS' EXHIBIT 43

HOLY BISHOPS' SYNOD OF THE
SERBIAN ORTHODOX CHURCH
No. 331
January 29, 1969
In Belgrade

EXCERPT

From the Minutes of Holy Bishops Assembly sessions, held on September 9 (August 27) 1958, at Patriarchal Palace in Belgrade, under No.ASNo.44/min.3, is registered as follows:

"Holy Bishops' Synod by its act No.2025/min.477, of July 15, 1958, is forwarding the report of His Grace American and Canadian Bishop Dionisije which informs that he cannot come to the sessions of the Holy Bishops' Assembly.

Holy Bishops' Assembly acknowledges report of His Grace American and Canadian Bishop Dionisije that he cannot attend this special Holy Bishops' Assembly".

That this excerpt from the mentioned Minutes is exact with its original, confirms and verifies,

January 29, 1969 — Supreme Secretary
Belgrade-Patriarchate — of the Holy Bishops Synod
Very Rev. Mladen Mladenovich
(Seal) (Signed)
(translator's certification omitted)

PLAINTIFFS' EXHIBIT 45

HOLY BISHOPS' SYNOD OF THE
SERBIAN ORTHODOX CHURCH
No. 331
January 29, 1969.
In Belgrade

His Grace American and Canadian Bishop Dionisije, by his act of May 5, 1953, has informed His Holiness Serbian Patriarch Vikentije that he could not come for sessions of the Holy Bishops' Assembly.

His Holiness Patriarch Vikentije, through the Holy Bishops' Synod forwarded this report of His Grace Bishop Dionisije to the Holy Bishops Assembly.

EXCERPT

From the Minutes of the Holy Bishops Assembly, held May 19 (May 6) 1953, in Patriarchal Palace in Belgrade, on page 10, under the number ASNo.37/min.8, is registered as follows:

"His Holiness Patriarch informs that he received from American and Canadian Bishop Dionisije report that he (Dionisije) cannot come and attend this Assembly sessions and his vote entrusts to His Holiness.

Holy Bishops' Assembly decides:

To acknowledge communication of His Grace American and Canadian Bishop Dionisije that he cannot come to the Assembly sessions, and that he entrusts his vote to His Holiness the Patriarch."

That this excerpt from above mentioned Minutes is exact with its original, confirms and verifies,

January 29, 1969 — Supreme Secretary
Belgrade-Patriarchate — of the Holy Bishops Synod,
(Seal) Very Rev. Mladen Mladenovich
(translator's certification omitted)

PLAINTIFFS' EXHIBIT 46

HOLY BISHOPS' ASSEMBLY OF THE
SERBIAN ORTHODOX CHURCH
ASNo. 44/min.59
June 7th, 1958,
In Belgrade

TO THE HOLY BISHOPS' SYNOD OF THE
Serbian Orthodox Church

Belgrade

The Holy Bishops' Assembly after studying of Rules of the Church-Peoples' Assembly and Rules of the Diocesan Council of the American-Canadian Diocese, under above number and date, made the following decision:

"On basis of Art.23, p.8, of the Constitution of the American-Canadian Diocese, the Holy Bishops' Assembly approves Rules of Diocesan Council of the American-Canadian Diocese proposed on the EIGHT Church-Peoples' Assembly of 18, 19 and 20th of September 1956.

As far as the Rules of Church-Peoples' Assembly is concerned, the Holy Bishops' Assembly approves articles 1, 2, 3, 4, 6, and 7, but does not approve proposed article 5, because it is contrary to the Article 105, of the Constitution of the Serbian Orthodox Church.

To caution His Grace Bishop of American-Canadian Diocese, Dionisije, that in the future will not approve decisions which propose that the same are in actual power before the competent authority approves it (see Article 25, p.8, of the Constitution of American-Canadian Diocese)."

Inform the Holy Episcopal Synod on this decision of the Holy Bishops' Assembly for its further competent action.

(Patriarchal seal)

PRESIDENT
of the Holy Bishops' Assembly
AEM and SERBIAN PATRIARCH
+ Vikentije

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 47

HOLY BISHOPS' SYNOD OF THE
SERBIAN ORTHODOX CHURCH
No. 331
January 29, 1969
In Belgrade

EXCERPT

From the Minutes of session of the Holy Bishops' Synod, held July 15th, 1958, in Belgrade.

In this Minute, on page 338, under No.2025/min.477, is registered as follows:

"Because of death of late Patriarch Vikentije, His Grace American and Canadian Bishop Dionisije, sends his act of July 8th, 1958, which says the following:

"Your Emminence Metropolitan and your Graces Brothers Bishops, members of the Holy Bishops' Synod,

We were deeply disturbed by the news of death of our Patriarch, blessed-resting Vikentije. We here immediately have sent the message to all our priests to serve a special memorial services and special liturgies with prayers for his martyred soul, martyred in service of our holy Church. We also have held memorial service for the Patriarch's soul.

Herewith we express our deep sympathy to the Holy Bishops' Synod for this irretrievable loss especially in these days, when every individual, every person, especially subjects of our Church and especially Bishop who is very indispensable. Let God accept his martyred soul into his heavenly kingdom.

At the same time I wish to inform the Holy Bishops' Synod that in election of a new Patriarch, which I wish and pray to God to be in most peaceful manner, in brotherly harmony and love, and my voice I entrust to His Emminence Metropolitan Nektary. Please, inform him of this.

I pray to God and St. Sava, that the ship of our holy martyred Church be led again to success and progress, to re-inforce its sailors and elect its Supreme Chief, a new Patriarch, a most worthy one, who will know how and be able to lead the ship of our Serbian Orthodox Church on its old well-known century old and Serbian paths.

I cordially greet the Holy Bishops' Synod and pray to God and St. Sava for success in your work with blessing of the Most High...

Loyal to the Holy Bishops Synod
Serbian American-Canadian Orthodox
+Bishop Dionisije."

After consideration, the Holy Bishops' Synod decides:

"To send the act of His Grace American-Canadian Bishop Dionisije of July 8, 1958, to the Holy Bishops' Assembly, in which he expresses his sympathy because of death of blessed-resting Patriarch Vikentije, and that the voice for election of Patriarch he entrusts to His Emminence Metropolitan of Dabro-Bosna, Nektary and inform him of this for his knowledge."

That this excerpt from mentioned Minutes is exact with its original, confirms and verifies,

Supreme Secretary
of the Holy Bishops Synod
(Seal) Very Rev. Mladen Mladenovich
(Signed)

January 29, 1969
Belgrade-Patriarchate

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 48

HOLY BISHOPS' SYNOD OF THE
SERBIAN ORTHODOX CHURCH
No. 331
January 29, 1969
In Belgrade

EXCERPT

From the minutes of the Holy Bishops' Assembly, held on June 9 (May 27) 1959, in the Patriarchal Palace in Belgrade.

On page 31, of this Minute, under ASNo.14/min.30, it is registered as follows:

"Holy Bishops' Synod by its act No.1419/min.242, of May 26th, 1959, forwards the act of His Grace American and Canadian Bishop Dionisije, No.28 of May 20, 1959, by which he informs that he cannot come to the sessions of the Holy Bishops' Assembly, and that he entrusts his vote to His Holiness Serbian Patriarch German.

On behalf of the Administrative-financial board the report was made by His Grace Bishop of Zvornik-Tuzla, Longin.

After consideration, the Holy Bishops' Assembly brings the following decision:

To acknowledge act of His Grace American and Canadian Bishop Dionisije, which informs that because of many works he cannot come to the sessions of the Holy Bishops' Assembly, and that he entrusts his vote to His Holiness Serbian Patriarch German, that he (the Patriarch) may vote on all questions except on the question of Macedonian church."

That this excerpt is exact with mentioned Minutes in its original, confirms and verifies,

January 29, 1969
Belgrade
Patriarchate

Supreme Secretary
of the Holy Bishops Synod
Very Rev. Mladen Mladenovich
(Seal) (Signed)

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 49

SERBIAN EASTERN ORTHODOX DIOCESE
OF THE UNITED STATES OF AMERICA & CANADA
Serbian St. Sava Monastery
Libertyville, Illinois USA

6/9 April 1960

TO THE HOLY SYNOD OF BISHOPS
of the Serbian Orthodox Church
Belgrade, Yugoslavia

Your Holiness:

Enclosed we forward to you hereto attached THE BY-LAWS of the Association of Clergy of the Diocese entrusted to us for approval. We have reviewed these BY-LAWS; that is, we have taken part in their preparation and have approved them. Yet, if it is in accord with Article 69 of the Serbian Orthodox Church [inserted word illegible] that the same should be approved by the Holy Assembly of Bishops, rather, if it is in the spirit of the Constitution of our Diocese Paragraph 12, by the Holy Synod of Bishops I ask that the same be approved. The enclosed copy you may keep for the archives of the Holy Synod of Bishops.

Loyal to the Holy Synod of Bishops
In Fraternal Love,
Bishop Dionisije /s/

PLAINTIFFS' EXHIBIT 50

HOLY BISHOPS' SYNOD OF THE
SERBIAN ORTHODOX CHURCH
No. 331
January 29, 1969
In Belgrade

His Grace American-Canadian Bishop Dionisije, by his act No. 47, of April 30th, 1960, forwarded to the Holy Bishops' Assembly of the Serbian Orthodox Church in Belgrade, act of the following content:-

Your Holiness,

Your Eminences and Graces,

Dear Brothers in Christ, bless,

We received brotherly invitation of Your Holiness to attend the session of the Holy Bishops' Assembly and enthronation of Your Holiness into the Throne of Ipek's Patriarchs, but am very sorry that neither this time we cannot participate in brotherly work with you. We are very busy with work here and are unable to come. Let Your Holiness, if You wish, use our voice if there is any voting in the sessions.

Entrusted to us, God-saved Diocese, is progressing little by little, thank God. At present there are big preparations for creation of a new diocesan center on Pacific—in the Western America, as it was done in the Midwest, and as it was done by God's help in the Eastern America. There are several new parishes and churches built recently. We have developed special action for moral and religious youth education. Every parish, church congregation, has a Sunday and parish school. Today, during one week, around our churches in America, in attendance to our church services come between 3 to 4000 Serbian children and youth.

We continue with our Diocesan educational program and with printing of religious literature in both Serbian and English languages. In this Diocese there are 64 church congregations, two new ones in forming stage, with 62 churches. In America and Canada we have around 200,000 orthodox Serbs.

These days was formed Association of the Priests of the Serbian Orthodox American and Canadian Diocese. We approved and blessed their work and By-Laws, made in the spirit and teaching of the Holy Orthodox Church and especially Serbian Orthodox Church. Now this Assocation is preparing together with Diocese, bi-monthly publication.

Diocesan Executive Board, in its session a few days ago, has decided to greet warmly the Holy Bishops' Assembly and Your Holiness at the occasion of enthroning of Your Holiness in place of Ipek's Patriarchs which it does through us, as its Bishop. Let all-merciful Lord bless that Your Holiness live long on the holy throne of the holy Ipek's Patriarchs, successfully leading ship of our Serbian Orthodox Church with help and cooperation of all brothers our Bishops.

Long live to many years, Your Holiness' in Christ, Brother,

American-Canadian Bishop
Dionisije (Signed)

EXCERPT

From the minutes of session of the Holy Bishops' Assembly, held on June 9 (May 27) 1960, at Patriarchal Palace at Belgrade, and in connection of above mentioned act of His Grace Bishop Dionisije, it is registered on page 30, under ASNo.20/min.29, as follows:

"Holy Bishops' Synod by its act No.1591/min.228, of May 13, 1960, forwards to the Holy Bishops' Assembly report

of His Grace American and Canadian Bishop Dionisije, that he is unable to come and attend session of the Holy Bishops' Assembly.

On behalf of Administrative-financial Board this was reported by His Grace Bishop of Timok, Emilian.

After consideration, the Holy Bishops' Assembly made this decision:

To acknowledge report of His Grace American and Canadian Bishop Dionisije, that he is unable to come and take part in this yearly session of the Holy Bishops' Assembly, and that his voice he entrusted to His Holiness' Patriarch German."

That this excerpt from above mentioned Minutes are exact with its original, confirms and verifies

Supreme Secretary
of the Holy Bishops' Synod
Very Rev. Mladen Mladenovich (signed)

January 29, 1969
Belgrade—Patriarchate. (Seal)

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 53

Holy Synod of Bishops
of the Serbian Orthodox Church
No. 1865
September 20, 1965
Belgrade

EXCERPT

From the official report of the Delegation of the Serbian Orthodox Church composed of His Eminence Damaskin, Metropolitan of Zagreb, and His Grace Nikanor, Bishop of Backa.

According to the decision of the Holy Assembly of Bishops AS No. 19 minutes 50 of June 12, 1962, and the Holy Synod of Bishops No. 1956 minutes 366 of June 29, 1962, they officially visited at that time Diocese for the U.S.A. and Canada and its then Bishop Dionisije Milivojevich. They arrived to the U.S.A. on September 13, 1962, and stayed there about three months.

Upon return to Belgrade His Eminence Metropolitan Damaskin and His Grace Nikanor, Bishop of Backa, submitted on January 24, 1963, under Secret No. 9 a report on this visit. Report, in addition to other things, contains under point b) discussion held by Delegation with former Bishop Dionisije on accusations which are lodged against him and which are before the Holy Synod of Bishops. That part of the report of the Delegation reads as follows:

"b) Finally we passed on complaints which are submitted to the Holy Synod of Bishops against him (Dionisije). It could be seen that His Grace The Bishop expected this matter as the most important and the main task of this Delegation.

It was a duty of Delegation to tell him that against him exist before the Holy Synod of Bishops from the past years many complaints, both in regard to his work and his way of personal life. It was pointed out to him that among those complaints there are some of such nature that the Holy Synod of Bishops could not overlook them easily."

Correction of this extract from the above mentioned report is certified

By the Chief Secretary of the
Holy Synod of Bishops
Mladen Mladenovich
Protopresbyter

PLAINTIFFS' EXHIBIT 54B

HOLY BISHOPS' SYNOD OF THE
SERBIAN ORTHODOX CHURCH
No. 331
January 29, 1969
In Belgrade

His Grace American and Canadian Bishop Dionisije, by his act Prot. number 180, of April 19, 1963, has forwarded to the Holy Bishops' Assembly the following:

"Holy Bishops' Assembly
of the Serbian Orthodox Church
Belgrade, Yugoslavia

Your Holiness, Your Eminences, Your Graces and Brothers,

Before anything else, I am hurrying to inform you that this time, too, I am unable to come to Belgrade, for attending-participating in work of the Holy Bishops' Assembly. I have some illness in my throat and am under physician's care.

In case of voting, I give my vote to His Eminence Metropolitan Nektary.

Please, inform me on the work of the Holy Bishops' Assembly.

Wishing you all the best and greeting all Brothers-Bishops headed by Your Holiness.

In Brotherly love, loyal to the Holy Bishops' Assembly, in the spirit of St. Sava,

Serbian Orthodox American and Canadian
+Bishop DIONISIJE (signed)

EXCERPT

From the Minutes of the Holy Bishops' Assembly, held on May 8, (April 25) 1963, at Patriarchal Palace in Belgrade, on this act of His Grace Bishop Dionisije, on page 50, under ASNo.29/min.45, is registered:

"Holy Bishops' Synod by its act No.1493/min.176, of April 23rd, forwards the report of His Grace American and Canadian Bishop Dionisije, that because of sickness he cannot come and participate in work of the Holy Bishops' Assembly, and that his vote entrusts, in case of voting, to His Eminence Metropolitan of Dabro-Bosnia, Nektary.

On behalf of the Administrative-financial board this is reported by His Grace Bishop of Zvornik-Tuzla, Longin.

After consideration, the Holy Bishops' Assembly decides:

Act of His Grace American and Canadian Bishop Dionisije, by which he informs that because of sickness cannot come to the sessions of the Holy Bishops' Assembly, is to be attached to his file."

That this excerpt from the mentioned Minutes is exact with its original, confirms and verifies,

Patriarchate

Supreme Secretary
of the Holy Bishops Synod,
Very Rev. Mladen Mladenovich
(Signed)

January 29, 1969
Belgrade (Seal)

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 55

HOLY BISHOPS' SYNOD OF THE
SERBIAN ORTHODOX CHURCH
No. 2486
August 10, 1963.
In Belgrade

YOUR GRACE,

The Holy Bishops' Assembly in its session of July 27, 1963, under ASNo.48/min.2, has decided to direct to the

clergy and the people in the United States and Canada, a MESSAGE, which would explain latest decisions of the Holy Bishops' Assembly, relating to life of our Church there.

Carrying out the above decision of the Holy Bishops' Assembly, it is our duty to forward the enclosed Message praying that you, in the usual manner publish it to the faithful of your Diocese.

Enclosed: Message.

Your Grace's in Christ Brother,

For President,
of the Holy Bishops' Synod
member, Bishop of Zahum and
Hercegovina,
+Vladislav (Signed)

(Seal)

TO HIS GRACE MIDWEST AMERICAN BISHOP
DR. FIRMILIAN
MILWAUKEE.

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 55B

A MESSAGE OF THE HOLY BISHOPS' COUNCIL

THE HOLY BISHOPS' COUNCIL
OF THE SERBIAN ORTHODOX CHURCH

sends its blessings, its supplications for God's Grace, to all the reverend priests, the venerable monks, and to all the faithful sons and daughters of our Church in the United States and Canada, as well as to those throughout the world.

Dear Sons and Daughters of St. Sava's Church:

Although a distance of many miles may separate us, our heartfelt thoughts of you keep us close. As a mother worries much more when her children are not with her, we

fear more intensely for you who are so far away. Likewise, as a mother warns her children when they are in jeopardy, we too caution you to avert the dangers threatened by your former Bishop, Dionisije.

Our Holy Serbian Orthodox Church was founded by God and St. Sava to serve all her people. This she will continue to do regardless of the circumstances, whether they be good or bad—whether in times of happiness and freedom or of suffering and slavery. Never in her sacred service has she sought merely her own gain. Instead, her one goal has been to provide the greatest good for her spiritual children. The Church, rather than being a body separated from her people, is an essential organ, as essential as the heart itself. Therefore, blessings unto the people are blessings unto her; evils which the people suffer, the Church suffers as well.

The oneness of the Church and her people is clear upon recognition of the Church as a great, living, spiritual organism, in St. Paul's words, "Christ's body," the head of which is Christ the Lord Himself.* Man's body is a composite of organs working cooperatively for the good of that body. Similarly, the men of the Church work cooperatively for the good of the Church. Under God's decree apostles, priests, teachers, and helpers work together,** all of them under one head, Christ.*** Since the Holy Spirit resides in the Church and governs it through the Holy Bishops' Council, all Church members, regardless of their position, are obliged to submit to the decisions of the Council, the highest Church assembly. The Holy Bishops' Council functions in the name of the Lord. "He who hears you, hears Me, and he who rejects you, rejects Me, and he who rejects Me, rejects Him who sent Me," said the Lord Jesus to His Apostles (Luke 10:16); He further added, "Truly, I say unto you whatever you bind on earth shall be bound in Heaven, and whatever you loose on earth shall be loosed in Heaven" (Matthew 18:18).

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* (Col. 1 24,; Ephes. 1, 22; 5, 23.)

** (I Cor. 12, 28.)

*** (Ephes. 5, 24—25.)

Dear spiritual children, for years we have received charges and complaints from both the United States and Canada against former Bishop Dionisije. These criticisms of his personal life and conduct were not anonymous; they were in fact, signed and documented. We strongly encouraged him to return to a righteous way of life. This was our duty as the guardians of the Church, bound by Evangelical Laws and Church Canons. Our efforts, however, were futile. In order to maintain the reputation of the Holy Church and its Divine Mission in the world, we were forced to take drastic action: we decided to suspend Bishop Dionisije from his duties and to make him subject to the rulings of the Canonical Court. But Bishop Dionisije chose not to obey the Church's highest authority, the Holy Bishops' Council, thus breaking a vow which he solemnly gave at the time of his consecration as Bishop.

Since former Bishop Dionisije added disobedience of the highest Church body to his many canonical offenses, the Holy Bishops' Council was forced to depose him. Archimandrite Firmilian Ocokolich, well known to all of you, was appointed his successor. Also, in the interest of more efficient administration, two additional Dioceses were created: The Middle Eastern and Canadian to be headed by the Very Reverend Stefan Lastavica priest at Windsor, Ontario, Canada; and the Western American under Archimandrite Gregory Udicki, professor and priest at Young-

wood, Pennsylvania. All that was done in accordance with Article 16 of the Constitution of the Serbian Orthodox Church and Article 2 of the Constitution of the Serbian Orthodox Diocese of the United States and Canada.

Ever since his deposition former Bishop Dionisije has been trying to mislead you. We appeal to you: do not let yourself be deceived; distinguish the good from the evil. Do not let yourself be severed from the body of Christ's Church; for he who is separated from the body, like an amputated limb or a broken branch, perishes spiritually, withers.

He who forsakes his Church abandons God and His Grace. He who forsakes his Church abandons God's angels and saints, led by the Holy Mother of God. He abandons St. Sava, St. Lazar, and all the Serbian saints and martyrs. He who forsakes his Church will know the curse of God, St. Sava, and all the Serbian saints before God's throne.

Brothers and Sisters, our spiritual children, again we emphasize: distinguish the good from the bad, the right road from the wrong. Support your legal Bishops and with them support your Holy Church. Preserve unity with our Mother Church in order that you may continue to know the blessings of God and St. Sava. May the Grace and Peace of God, of our Saviour Jesus Christ, and of the Serbian Orthodox Church be with you.

Belgrade, July 27, 1963.
AS No. 48/com. 2.

Archbishop of Pec
Metropolitan of Beograd - Karlovci and
SERBIAN PATRIARCH
GERMAN

Metropolitan of Zagreb DAMASKIN; Metropolitan of Budim ARSENIJE; Metropolitan of Dabro - Bosna

NEKTARIJE; Metropolitan of Crna Gora and Primorje DANILO; Bishop of Timok EMILIJAN; Bishop of Nis JOVAN; Bishop of Sumadija VALERIJAN; Bishop of Srem MAKARIJE; Bishop of Backa NIKANOR; Bishop of Zica VASILIJE; Bishop of Branicevo HRIZOSTOM; Bishop of Banat VISARION; Bishop of Slavonia EMILIJAN; Bishop of Zvornik - Tuzla LONGIN; Bishop of Gornji Karlovci SIMEON; Bishop of Zahumlje - Hercegovina VLADISLAV; Bishop of Raska - Prizren PAVLE; Bishop of Banja Luka ANDREJ; Bishop of Dalmatia STEFAN; Bishop of Sabac - Valjevo JOVAN; Bishop of the Eastern USA and Canada STEFAN.

PLAINTIFFS' EXHIBIT 56

HOLY BISHOPS' SYNOD OF THE
SERBIAN ORTHODOX CHURCH
No. 331
January 29, 1969
In Belgrade

His Grace Bishop of the American-Canadian Diocese, Dionisije, by his letter No. 123 of May 23, 1962, sent to the Holy Bishops' Synod of the following content:

Your Holiness,
Dear Brothers Bishops,
members of the Holy Synod,
Bless!

We received communication of the Holy Synod No. 1411/min.154, of May 9th, of this year, for which I have signed postal receipt.

Also we confirm the receipt of communication No.1323/min.214, of April 20th, of this year, by which you are inviting me, as member of the Holy Bishops' Assembly for this yearly session.

We are very sorry to inform you that this year too, we cannot comply and do my duty because of many diocesan works, especially because of organizing our new diocesan center in California, which is to be opened in June, God willing. Considering this as well as many other diocesan engagements, our Diocesan Executive Board has decided and asked us not to leave Diocese, in other words not be away from the Diocese.

Enclosed is verified copy of this decision of the Executive Diocesan Board.

To all brothers Bishops, members of the Holy Bishops' Assembly, I am sending our cordial greetings, remaining always in canonical unity with my Church of St. Sava, and wishing harmonious brotherly and fruitful work for the good of our Holy Church and our Serbian people.

Necessary reports as of the status of Diocese entrusted to me, I am sending in a special mailing.

Wishing to Your Holiness everything good of God, as well as to all Bishops, members of the Holy Bishops' Assembly and Synod, I am greeting Your Holiness as our Brother in Christ,

American-Canadian Bishop,
+Dionisije (signed)

The Holy Bishops' Synod by its letter No.1709/min.307, of June 1st, 1962, has sent to the Holy Bishop's Assembly the letter of His Grace Bishop Dionisije.

EXCERPT

from the minutes of session of the Holy Bishops' Assembly regarding this matter.

In the minutes of Holy Bishops' Assembly, held on June 9, (May 27) 1962 in the Patriarchal Palace in Belgrade, on page 30, under AS No.17/min. 24, it is registered as follows:

"Holy Bishops' Synod, by its letter of June 1st, 1962, sends report of His Grace American and Canadian Bishop Dionisije, that he is not able to respond to the invitation and take part on this yearly session of the Holy Bishops' Assembly.

On behalf of the Administrative-financial board, report was made by His Grace Bishop of Banat, Visarion.

After consideration, the Holy Bishops' Assembly made the following decision:

To acknowledge report of His Grace American-Canadian Bishop Dionisije, by which he reports that because of engagements cannot attend this yearly session of the Holy Bishops' Assembly."

PLAINTIFFS' EXHIBIT 57

Holy Synod of the
Serbian Orthodox Church
No. 331
January 29, 1969
In Belgrade

His Grace the American-Canadian Bishop Dionisije, by his act Protocol Book of Acts No. 125 of May 25th, 1962, submitted to the Holy Assembly of Bishops of the Serbian Orthodox Church in Belgrade, an Act of the following content:

"The Holy Assembly of Bishops of the
Serbian Orthodox Church
Belgrade, Yugoslavia

Your Holiness,
Beloved brother Metropolitans and Bishops,
Members of the Holy Assembly of Bishops,
Bestow blessings!

We have the honor to submit the following report on the state of the Diocese entrusted to us to this Annual Session of the Holy Assembly of Bishops:

The number of faithful in this Diocese is about 250,000. Its expanse is from the North pole (Alaska, Canada) to the Caribbean sea where are included the dominions of this country Puerto Rico and others, Mexico, and then westward including Hawaii and American dominions in the far East. Who doesn't know, would think that it is easy to be a bishop on such vast territory, but believe that it is a litte more difficult than as it is thought. For example, I have to consecrate a new Church in the state of Saskatchewan, Canada on June 17th. It is more than 3,000 kilometers from here! I have not yet succeeded in going to Alaska, but it is necessary!

There are 78 Church-School Congregations in this Diocese scattered over this entire territory. I have 78 priests and 3 deacons. There are 60 Holy Temples (Churches).

In the past year five new Church-School Congregations were founded and 5 new churches were erected.

In every Church-school congregation there is a singing society, there is a Sunday School, and at many there is also a parochial school. There are about 10,000 children every Sunday in our holy churches and in the schools in our Church-school congregations.

Our Diocese is divided into 4 episcopal districts: the Mid-Western, Eastern, Western and Canadian.

Affiliated with the Diocese as an auxiliary organization is the Federation of Circles of Serbian Sisters, to whom is entrusted care for maintaining the summer children's camps and the teachers' courses for the teachers of our schools. Up to now there are 72 of our women's organizations enrolled in membership in this Federation, while through our

children's summer camps in our 3 centers, passed about 1,200 Serbian children last year.

This year we are undertaking measures for better organizing the Canadian part of our Diocese.

Last year with God's help we succeeded in creating a new center for the far west—for California. In Jackson, where the first Serbian Church was built on this continent, about 70 acres of land was purchased on which is now being built buildings for the children's summer camp and others. This property cost about 110,000 dollars, and the Serbs from the West are investing over half a million dollars.

God willing, this year will begin the building of a holy Church on Shadeland. Enclosed is our report from our last Church-National Assembly, as also the proposed budget for 1962, from which can be seen the financial condition of our Diocese itself.

Trusting that this brief report will be satisfactory, I remain Faithful to the Assembly and Your Holiness' brother in Christ,

American-Canadian bishop
S/ +Dionisije

EXCERPT

from the Minutes of the meeting of the Holy Assembly of Bishops held on June 14 (1), 1962, in the Patriarchal palace in Belgrade, concerning the above Act of His Grace Bishop Dionisije, on page 67, under Holy Assembly No. 18/min. 69, this is recorded:

"The Holy Synod of Bishops by act No. 1711 of June 1, 1962, forwards the report of His Grace the American-Canadian Bishop Dionisije on the state of the Diocese entrusted to him.

In behalf of the Committee on reports His Grace Bishop Emilijan of Slavonia reports.

Upon consideration the Holy Assembly of Bishops decides:

That the report of His Grace the American-Canadian Bishop Dionisije on the state of and on his work in the Diocese entrusted to him, be taken into acknowledgment."

That this excerpt from the designated minutes is faithful to its original, is affirmed and certified by

January 29, 1969
Belgrade
The Patriarchate (Seal)

Supreme Secretary
Holy Synod of Bishops
S/ Mladen Mladenovich
Archpriest

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 58

SERBIAN EASTERN ORTHODOX DIOCESE
For the United States of America and Canada
Serbian St. Sava Monastery
Libertyville, Illinois
U.S.A

May 25, 1962
D.Prot. No. 127

Your Holiness,
Dear Brethren
Metropolitans and Bishops
Members of the Holy Assembly of Bishops
Give Blessing:

Because it was impossible for us for the reason of many Diocesan business to personally take part in this year's session of the Holy Assembly of Bishops, so in this manner, we greet your Holiness as well as all of the brethren Bishops, with prayers to God for a successful work and wise direction of the ship of the Serbian Orthodox Church.

Wishing you, brethren Bishops, every good from God we consider as necessary on this occasion to make to the Assembly a few proposals, God-willing. Namely, we propose:

A. That this Diocese because of its importance, size and vastness, be elevated to the rank of Metropolia, as it was proposed by our Church National Conventions, that a decision should be made regarding the election of at least 2 or 3 Suffragan Bishops according to the Greek type in regard to what we have been proposing to the Holy Assembly in its time. As to how the Metropolitan himself and his Suffragan Bishops should be elected, that should be left for the later decisions in the spirit of the needs of this emigration and with the deliberation with it. In regard to the person of Metropolitan and his Suffragan Bishops that as well should be decided later. We personally do not claim the title of Metropolitan but rather we leave to be decided according to the principle: "It pleased the Holy Spirit and yourself, as well as these people." Here we make proposals for the basic decisions.

B. That to this diocese, God-willing, future Metropolia, by arrondissement be added South America and South Africa. We can no more administer that territory, because in our action our hands are bound, and we cannot carry out the necessary organization of the same without accord with him who has entrusted to us that administration. But here can arise the difference of opinions; Because of that, the administration of these territories I return back to his

Holiness, Sir Patriarch. We do not think that it is necessary to argue about the need, that at least on this continent all Serbs should be united in one church unit—Metropolia or Diocese.

Once more, we wish to assure Holy Assembly of Bishops that here this is not about future splitting and cessation from the Holy Serbian Orthodox Church, because at least as long as we are the Bishop of this Diocese that shall not be, neither will it happen. We hope, providing that Holy Assembly of Bishops accepts our proposals, that split even after us will be avoided by compromise solutions, which will satisfy both the needs of the Church and the wishes of these people as well. But you, brethren, act as God teaches you and what you consider to be the best, but we have said and have written what we consider to be the best.

Wishing to all brethren Bishops every good from God and cordially greeting all.

Your brother in Christ.

American-Canadian
Bishop Dionisy

Holy Assembly of Bishops
of the Serbian Orthodox Church
Belgrade, Yugoslavia

PLAINTIFFS' EXHIBIT 59

HOLY BISHOPS' SYNOD
OF SERBIAN ORTHODOX CHURCH
No.2771/min.371
September 3, 1963.
Belgrade

YOUR GRACE

Presidentship of the so-called "Church-Peoples' Assembly," held in Libertyville on 6, 7, and 8th of August of this year, with their letter of August 10, 1963, has sent to His Holiness the Patriarch Serbian German, a copy of the Resolution of that Assembly.

Regarding this, Holy Episcopal Synod, in its session under the above number and date, has made this decision:

"In connection of held so-called 'Church-Peoples' Assembly,' in Libertyville, Illinois, USA, on the 6th, 7th and 8th day of August 1963, Holy Episcopal Synod finds it completely unlawful because of the following:

1. That in session of 'Assembly' did not take participation: All Serbian Orthodox clergy, monks and priests, as prescribed by Paragraph 16, point 2, of the Constitution of the Serbian Orthodox Diocese for the United States of America and Canada, but only few of them;

2. That in session of 'Assembly' took part as a Diocesan bishop (Paragraph 16, point 3, of the same Constitution) His Grace Bishop Dionisije, although he did not have a right to, for he was under suspension and out of Diocese by the decision of the Holy Bishops' (Council) Assembly ASNo.42/min.2, of 1963;

3. That the 'Assembly' was opened and presided over by His Grace Bishop Dionisije, in the sense of paragraph 22, of the same Constitution, although he did not have right to it, for the same reasons mentioned in point 2; and

4. That 'Assembly' was not convened nor held in time as prescribed in the paragraph 20 of the same Constitution.

Because of all these, Holy Episcopal Synod considers all decisions, mentioned in the Resolution by this so-called 'Church-Peoples' Assembly' in Libertyville unlawful, unconstitutional and of no value."

In the sense of Holy Episcopal Synod's decisions under above number and date, has an honor to inform you for your own knowledge.

Your's Grace in Christ brother,

For President
of the Holy Bishops' Synod
member, Bishop of Timok
+Emilian

HIS GRACE FIRMILIAN, BISHOP OF THE
MIDWEST SERBIAN ORTHODOX DIOCESE,
MILWAUKEE, Wis.

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 61

HOLY SYNOD OF BISHOPS
OF THE SERBIAN ORTHODOX CHURCH
No. 1154/minutes 300
May 20, 1955
Belgrade

Your Grace:

Holy Synod of Bishops in its meeting under the above number and date has decided:

"According to article 117 of the Constitution of the Serbian Orthodox Church to take notice of the report of His Grace American Canadian Bishop Dionisije No. 12 of May 14, 1955, that He appointed Archimandrite Dr. Firmilian Ocokoljich, member of the Ecclesiastical Court and Director of the Diocesan Property at Shadeland, as His Episcopal Deputy."

Of the above decision the Holy Synod of Bishops has the honor to inform you for Your information.

For the President
of the Holy Synod of Bishops
member, Bishop of Budimlje-Polimlje
Makarije

(seal)

His Grace
American Canadian Bishop Dionisije
Libertyville, Illinois

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 67

THE PATRIARCHATE OF MOSCOW
HOLY SYNOD OF THE RUSSIAN ORTHODOX CHURCH
DEPARTMENT FOR EXTERNAL CHURCH RELATIONS
MOSCOW
No. 1259

July 13, 1966

HIS HOLINESS, THE MOST HOLY GERMAN
Archbishop of Pech, Metropolitan of Belgrade-Karlovci
and Serbian Patriarch
YOUR HOLINESS,

With the greatest respect we inform Your Holiness, that His Holiness the Patriarch of Moscow and all Russia Alexei received a lengthy epistle from the former bishop of America-Canada, Australia and Europe Dionisije, dated March 31 of this year. In the mentioned epistle he complains about the decision of Your Holiness and the Holy Assembly of Bishops of the Serbian Orthodox Church concerning the division of the American-Canadian diocese into several dioceses without his consent, and expresses a strong protest against his removal from the duties of governing the dio-

cese and of his defrocking. Not only does he plead, but he even demands of the Most Holy Patriarch Alexei intervention and mixing in the above mentioned matter.

Enclosed we forward with greatest respect to Your Holiness a copy of the letter-reply, which with the blessings of the Most Holiness Patriarch Alexei, His Grace Bishop of Zaraj Juvenal—the deputy to the president of the department of external church relations of the Moscow Patriarchate, sent to the former American-Canadian bishop Dionisije.

I beseech the prayers of Your Holiness, with love in Christ our Saviour,

President of the Department
of External Church Affairs of the
Moscow Patriarchate
S/ Metropolitan Nikodim

PLAINTIFFS' EXHIBIT 67a

No. 1266 July 13, 1966

The Most Holy Patriarch of Moscow and all Russian Alexei read your epistle, which contains a complaint against the work of His Holiness Patriarch German and the Holy Assembly of Bishops of the Serbian Orthodox Church.

We consider it our duty to inform you that the question of the division of the American-Canadian diocese, which belongs under the jurisdiction of the Serbian Orthodox Church, into several dioceses, the determining of their boundaries, as also the question of renewed consideration of the decisions of the Holy Assembly of Bishops concerning you—are internal matters of the Serbian Orthodox Church. Therefore, in accordance with the holy canons of the Church, we have nothing to undertake in this concrete situation.

Accept expressions of our feelings of Christ's love.

Deputy to the President
Department of External Relations of
the Moscow Patriarchate
BISHOP OF ZARAJ JUVENAL

PLAINTIFFS' EXHIBIT 67g

SERBIAN EASTERN ORTHODOX DIOCESE
For the United States of America
and Canada
Serbian St. Sava Monastery
Libertyville, Ill.
U.S.A.

Register Number 280
March 2, 1966

THE ALL-RUSSIAN PATRIARCH, HIS HOLINESS
ALEKSEI
MOSCOW, U.S.S.R

YOUR HOLINESS,

INTRODUCTION

At the time when the RUSSIAN PATRIARCHATE WAS RE-ESTABLISHED in 1943, I as free Serbian Orthodox Bishop in America GREETED the restoration of the All-Russian Patriarchate, and up to the present day I have never attacked either Your Holiness as Patriarch, nor the All-Russian Patriarchate.

At the first conference held at Rhodes You had my recommendation, which was constructive, and Your delegation adopted it, but was not pleasing to the Greeks. Today You have a bad situation in France, in Paris, where Archbishop Georgije has proclaimed himself autocephalous. We have not as yet come into contact with him nor have We established cooperation with him.

Here in America We had relations with the American Russian Orthodox Church headed by Metropolitan Leonty, but We did not have cooperation with the Russian Synod in Exile, and even today We do not have relations with them. But that Russian Synod in Exile today does cooperate with Serbian Patriarchate in Yugoslavia through their here imposed, against the people's will, three bishops. Leonty's Russian Church, which is headed now by Metropolitan Irinei, also maintains cooperation with them.

Your Holiness, We have made this introduction, that You may know where We stand.

Today our Serbian Orthodox American-Canadian Diocese has two other auxiliary dioceses—in Australia, and in Europe, with 106 parishes and Church Congregations.

COMPLAINT AGAINST PATRIARCH GERMAN

As Bishop of the autonomous Serbian Orthodox American-Canadian Diocese, I submit TO YOUR HOLY THRONE A COMPLAINT AGAINST THE SERBIAN-MACEDONIAN PATRIARCH GERMAN AND HIS HOLY ASSEMBLY OF BISHOPS, and humbly plead for Your exalted intervention and protection, for I am seeking legal and canonical justice which Patriarch German and his Holy Assembly of Bishops did not apply, but TRAMPLED upon.

On the basis of the 9th canon of the IV Ecumenical Council, I have turned to the Ecumenical Patriarch, Athenagoras, but he didn't respect that holy canon, and did not show himself to be a protector of the holy canons of the Orthodox Church, and turned a deaf ear to my petition and did not take it into consideration, but rather confirmed the decisions of the Patriarch German and his Holy Assembly of Bishops concerning the division of our Diocese and of my being defrocked, which was done completely unlawfully and uncanonically. In order to prove that I was

not guilty, I have printed a book in the English language which I enclose: TRANSGRESSIONS OF PATRIARCH GERMAN AGAINST THE HOLY CANONS AND CHURCH LAWS. In this book are included documents in the original, translated into English, which show how Patriarch German violated church and civil laws in my case, and in the case of our Diocese. And our Diocese is still always a lawful organization before the American and Canadian state authorities.

I accuse Patriarch German for creating a schism in the Serbian Orthodox Church, in Yugoslavia and outside the same, and because without agreement he unlawfully dissolved our Diocese, divided the territory of America and Canada into three parts, and appointed three new Bishops of whom the people have exclaimed UNWORTHY. He also dissolved the holy PATRIARCHAL COUNCIL, which has the right and duty to cooperate with the Holy Assembly of Bishops in the creation of new Dioceses, only in order to be able to carry out this change. This diocese has and has had its own separate CONSTITUTION by which it was and is governed up to present day. According to that Constitution Patriarch German did not have the right to change anything whatever without our Diocesan Church-People's Assembly, but German announced that our Church-People's Assembly was illegal and void! Nine Church-People's Assemblies were held in this Diocese until now, and all were legal. When our X Diocesan Church-People's Assembly was held in two sessions, in August and November of 1963, the Assembly postponed its session of August for two months and sought that Patriarch German and the Holy Assembly of Bishops in Belgrade change and withdraw their decisions, and when this was not done, at the new session of the Assembly in the month of November

THE PEOPLE PROCLAIMED THIS DIOCESE TO BE COMPLETELY AUTONOMOUS AND HAVE CUT ALL FURTHER CANONICAL TIES WITH PATRIARCH GERMAN, except the spiritual, and our congregations, and *our priest* DO NOT MENTION HIM ANY LONGER AT DIVINE SERVICES! The blame for this belongs to the Serbian Macedonian Patriarch and his narrow-minded Holy Assembly of Bishops.

This Diocese at first was under the jurisdiction of the Russian Orthodox Church. In 1913 the clergy and people of this Diocese decided to seek the refuge and protection of the Serbian Orthodox Church in the Kingdom of Serbia. In 1917 the Russian Archbishop Evdokim, who governed here, announced his DECREE by which the SERBIAN ORTHODOX DIOCESE IN AMERICA AND CANADA was created. The same year the Holy Synod of the Russian Orthodox Church of Moscow sent Archimandrite MARDARY here to govern the affairs of the Serbian Diocese in America and Canada.

Again after I World War, Serbian clergy and congregations sought to be placed under the spiritual authority of the Serbian Orthodox Patriarchate, which was then re-established and united. Thus, upon the request of these people and clergy, that Serbian Diocese which was under Russian jurisdiction, was transferred to the jurisdiction of the Serbian Orthodox Church, the first Bishop was appointed, Dr. Nikolai Velimirovich, and later Archimandrite Mardary himself was consecrated in Belgrade with the title of American-Canadian Serbian Bishop.

This Diocese immediately created its autonomous Constitution, which was with a few changes approved in Belgrade, and was and is in effect until 1939, when it was amended a little, then approved in Belgrade, and is in effect up to the present day.

Paragraph 3 of the Diocesan Constitution states: "*The jurisdiction of the Serbian Orthodox American-Canadian Diocese with its see in Chicago, i.e. in Libertyville, includes the whole political territory of the United States of America and Canada, and has complete administrative freedom, and therefore autonomously, in the spirit of this* CONSTITUTION *and in agreement with the laws of America and Canada, governs all of its affairs of the Church, schools, diocesan institutions' funds and properties.*" Accordingly, the Holy Assembly of Bishops and Patriarch German did not have any right to meddle in the affairs of this Diocese, neither to divide the same, nor to appoint for the same any kind of new Bishops. By this, Patriarch German with his Assembly of Bishops violated the 8th canon of the III Ecumenical Council, which states: "... *And therefore this and ecumenical Council establishes that for every particular Diocese there be preserved pure and inviolate rights, which from the very beginning and from long ago it enjoyed, in accordance with custom established of ancient times. . . .*

And if anyone suggest any new solution which is contrary to this which is established, the entire holy ecumenical Council orders that such solution be without any legal power (validity)." The Serbian Orthodox American-Canadian Diocese exists back from 1917, which means it existed 47 years at the time when the decisions of the Holy Assembly of Bishops in Belgrade were made, and this Diocese had not collapsed but it grew and developed. It progressed also in number of faithful, in the number of churches and in its diocesan properties, and therefore not a single reason existed for it to be dissolved and divided. For this reason the Diocesan Church-People's Assembly rejected the decisions of the Holy Assembly of Bishops, because

these people, who have created this Diocese, are defending their rights!

The Holy Assembly of Bishops in Belgrade with Patriarch German at the head trampled all the rights of these people who have created this Diocese, and they have trampled upon our Diocesan Constitution WHICH PROVIDES IN ITS PARAGRAPH 23, THAT ALL CHANGES AND AMENDMENTS OF THE CONSTITUTION ARE FIRST BROUGHT BY OUR DIOCESAN CHURCH-PEOPLE'S ASSEMBLY AND THEN THE SAME TO BE SENT TO THE HOLY ASSEMBLY OF BISHOPS FOR APPROVAL, that is, for various remarks. Neither by their own Constitution of the Patriarchate, nor by our Diocesan Constitution, did the Holy Assembly of Bishops alone have the right to change the Constitution, to create three Dioceses, to dissolve this legally one Serbian Orthodox American-Canadian Diocese. It is clear, that the Holy Assembly of Bishops in Belgrade violated their own Constitution of the Patriarchate and the Constitution of this Diocese, and the LAWS OF THE STATES OF AMERICA AND CANADA with whose authorities this Diocese is registered and exists as a legal religious organization, which has its own legally elected committees, bodies, and DIOCESAN COUNCIL, which represents this Diocese.

COMPLAINT AGAINST MY SUSPENSION AND DEFROCKING

The Holy Assembly of Bishops in Belgrade issued its decision under number 1664/188 of May 10, 1963, by which it placed me as Bishop under sacerdotal suspension and appoints a special commission to investigate all accusations against me. The Holy Synod forwarded this act to me on June 10, 1963, under its number 1986/265. This Commission which had to come to America, did not give to me

any kind or type of accusation so that I could reply to the same. I demanded on the basis of Church and civil laws that the mentioned accusations be first of all given to me in notarized copy so I could see them, study them and reply to the same. The commission concerned was still in America; it still did not complete its work, when I received from the Holy Synod of Bishops, under number 2401/354 of July 29, 1963, the decision of the Holy Assembly of Bishops of Belgrade: THAT I AM RELIEVED OF MY DUTIES OF GOVERNING THE DIOCESE! Until then I have neither replied to anything, nor have I seen the accusations at all, and the Holy Assembly of Bishops and Synod punish me by depriving me of a Diocese! I did not recognize that deposing nor did the people here recognize it nor did the majority of our church congregations and priests. According to the laws of the Serbian Orthodox Church, not to mention state laws and the holy canons, NO ONE CAN BE PUNISHED BY ANY PUNISHMENT WITHOUT PRIOR HEARING, without his prior reply! They have punished me by taking away my Diocese without hearing me and without my reply to the various accusations and pamphlets. This has caused great confusion among our people and in our Diocese.

Finally on October 18th, 1963, under number 3215/509, the Holy Synod of Bishops did send me the indictment, but again without a single addition to the accusation which various irresponsible persons have submitted against me, and have even taken into account unsigned submissions and anonymous leaflets against me! They left me a very short period of time for a reply—only 30 days, citing as a basis for this the 19th canon of the Council of Carthage. Since I was still hopeful of justice from Patriarch German and his Holy Assembly of Bishops, and I personally did not

want to cut ties with my Serbian Orthodox Church, I have ACKNOWLEDGED RECEIPT OF THIS ACT AND ASKED FOR A PERIOD OF TIME OF SIX MONTHS FOR MY REPLY, AND ALSO, THAT THEY SEND ME A NOTARIZED TRANSCRIPT OF ALL ACCUSATIONS AGAINST ME on the basis of our church laws, articles 67 and 81, which specifically provide that the accused must know who is accusing him, why he is accusing him, and that he must have transcripts of the mentioned accusations. I have authorized three priests in Belgrade to go to the Synod and copy all the accusations, that the Synod notarize them and send them to me.

The Holy Synod of Bishops was deafened to my rights, trampled upon that right of mine, and by its act under number 3676/647 of December 10th, 1963, informed me: THAT TRANSCRIPT OF THE ACCUSATIONS AND PAMPHLETS CANNOT BE SENT TO ME, THAT THEY GIVE ME ONLY ONE ADDITIONAL MONTH TO REPLY TO THE ACCUSATION. AND, WHAT IS WORSE OF ALL, THAT AGAINST THIS DECISION I HAVE NO APPEAL! Seeing that I could expect no kind of justice, nor any kind of legal procedure as provided for in our church laws and holy canons of our Orthodox Church, I RETURNED, WITH MY LETTER OF JANUARY 13th, 1964, THE MENTIONED ACCUSATION TO THE HOLY SYNOD WITH REMARKS CONCERNING THE HOLY CANONS WHICH WERE VIOLATED AND WHICH CHURCH LAWS THEY HAVE TRAMPLED. Since all my rights, both as a Bishop and as a man were trampled by the Holy Synod of Bishops, headed by the schismatic Patriarch German, I had nothing to reply neither to expect any justice. On March 27th, 1964, the Holy Assembly of

Bishops again met in Belgrade, at which time the decision was rendered: THAT BISHOP DIONISIJE BE DEFROCKED.

This completed that dreadful unjustice against which I am appealing and accusing Patriarch German and his Holy Assembly of Bishops.

Patriarch German and his Holy Assembly of Bishops VIOLATED ARTICLE 111 OF THE CONSTITUTION OF THE SERBIAN PATRIARCHATE, which states: "The Holy Assembly of Bishops can remove a Diocesan Bishop from a diocese only upon canonical judgment, or relieve him upon proven disability, or if it be established that one of the conditions of article 104 ceases to be met, and upon justified request for retirement." However, I did not violate a single condition as specified in article 104! I have not been canonically judged at all, since I was not allowed to defend myself and bring forth my witnesses.

Patriarch German and the Holy Assembly of Bishops in Belgrade violated and trampled the 6th canon of the SECOND ECUMENICAL COUNCIL which says, that all accusations need be first of all investigated, that the accusers sign them and be sworn, and that they accept upon themselves the same punishment, if their accusations be false, that they are recommending for the accused Bishop. The accusers must publicly appear in court with their witnesses. That the accused Bishop also appear in court with his witnesses. None of this took place, nor was that procedure followed at all. They have violated and trampled the 74th Apostolic Rule, and the 19th, 50th, and 53rd canons of the Council of Carthage and many other canons and rules of the holy Church and in the first place, they have ignored the words of Christ from the Holy Gospel, when they were smiting Him, and He said: "IF I HAVE SPOKEN EVIL SHOW THEN THE EVIL, AND IF I HAVE

SPOKEN WELL, WHY DO YOU SMITE ME." I am judged on the basis of unproven accusations by various intriguers and by my enemies.

I PLEAD AND DEMAND FROM YOUR HOLINESS, since the Patriarch of Constantinople refused to apply the 9th canon of the holy IV Ecumenical Council, I AM TURNING TO YOUR HOLINESS IN THE INTEREST OF THE HOLY ORTHODOX CHURCH, that You order that an investigation be made here in America and I SUBMIT TO YOUR DECISIONS, WHEN EVERYTHING IS INVESTIGATED AND CONFIRMED!

I HEREBY DECLARE: THAT I RECOGNIZE YOUR HOLINESS AS PATRIARCH OF ALL-RUSSIA AND MOSCOW! I PLEAD WITH YOU—HELP US!

With me there are nearly 200,000 Serbs scattered in the whole world. No one will be against Your Holiness if you extend to us Your merciful hand. We could not come under Your jurisdiction, but plead for help, for cooperation and support, and We will make an agreement with Your Exarch in America as to how to cooperate and be in brotherly love. To Your Holiness's Exarch I am sending a copy of this complaint!

Kissing the holy right hand of Your Holiness,
Serbian Orthodox American-Canadian, Australian and European,

BISHOP DIONISIJE (Signature)

(Seal)

PLAINTIFFS' EXHIBIT 67H

The Patriarchate of Moscow
The Holy Synod
of Russian Orthodox Church
Department of Foreign Church Affairs
Moscow 34, str. Ryleev 18/2
Number 1266

July 13, 1966

The Most Holy Patriarch of Moscow and all Russia, Alexey, read Your letter consisting of the complaint against action of His Holiness Patriarch German and the Holy Bishops' Council of the Serbian Orthodox Church.

We are considering as our duty to notify You, that question of division of American and Canadian Diocese, being in jurisdiction of the Serbian Orthodox Church, to several Dioceses, and decision of their borders, as well as the question of reformation of the decision of the Holy Bishops' Council in Belgrade in regard to You, is an internal affair of the Serbian Orthodox Church. On the basis of that, in accordance with the holy canons of Church, we do not have any right to undertake anything in this matter.

Accept expression of our feeling of Christ's love

The substitute of the president
of the department of Foreign Affairs of church
of Patriarchate of Moscow
Bishop of Zarjsky YOUVENALIY

Par avion-Registered
The Right Rev. Bishop Dionisije
Serbian Eastern Orthodox Diocese
Serbian St. Sava Monastery
Libertyville, Illinois, U.S.A.

Patriarchate of Moscow
Department of Foreign Church Affairs
Moscow G-34 Str. of Ryleev 18/2
Moscow 34, U.R.S.S.

PLAINTIFF'S EXHIBIT 68
THE CONSTITUTION
OF THE
SERBIAN ORTHODOX CHURCH
SECOND EDITION
OF THE
HOLY SYNOD OF BISHOPS
BELGRADE 1957

Translated by: Very Rev. Velimir P. Kovacevich
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THE CONSTITUTION OF THE SERBIAN ORTHODOX CHURCH

"Since certain rules and regulations of the Constitution of the Serbian Orthodox Church of November 16th, 1931 were rendered powerless because of the changes in rela-

tionship of the Serbian Church toward the State, and in view of the heavy consequences of the war and of the conditions which have arisen in the life and work of the Serbian Church, the Holy Assembly of Bishops of the Serbian Orthodox Church made changes and amendments in this Constitution, which by reason of necessity are immediately applicable, as of the day of publication in the "Glasnik", the official journal of the Serbian Patriarchate, with the condition that they be presented at the appropriate time to the Patriarchal Council through the Patriarchal Executive Committee."

CONSTITUTION
OF THE SERBIAN ORTHODOX CHURCH
1. FUNDAMENTAL REGULATIONS

ARTICLE 1.

The Serbian Orthodox Church is one, undivided, and autocephalous. The Church confesses publicly its religious teachings, performs publicly its religious services, and governs and regulates independently all its religious affairs.

Serbian Orthodox Church maintains dogmatic and canonical unity with all other Orthodox Churches.

ARTICLE 2.

The Serbian Orthodox Church has a rank of a Patriarchate.

ARTICLE 3.

The following is a description of the coat of arms of the Serbian Orthodox Church:

Upon the patriarchal background of purple, it is decorated with a doublebar cross on the right side, and the archipastoral staff on the left, and in the center a shield

topped with a bishop's crown; upon the blue upper half of the shield on the right side is the tower of St. Sava in Hilendar, and on the left side the monastery church of the Patriarchate of Ipek, both white in color; upon the lower white is a gold cross in the center with four equal sides, and upon each of the four spaces about the cross is a golden ray eminating from each corner.

ARTICLE 4.

The official language of the Serbian Orthodox Church is Serbian with writing in Cyrillic. In exceptional and justified cases, a deviation from this regulation is allowed with regard to the language for internal use, in which cases The Holy Synod of Bishops makes a special ruling based upon this regulation.

The banner of the Serbian Orthodox Church is tri-color; red-blue-white, with a gold cross and rays.

ARTICLE 5.

The legal persons in the Serbian Orthodox Church are these: Patriarchate, dioceses, church congregations, monasteries, foundations, independent institutions or such funds designated for places of worship.

These legal persons may, in accordance with legal regulations, acquire and hold either personal or real properties, and have all the rights and obligations in that capacity.

ARTICLE 6.

The Serbian Orthodox Church independently governs and freely handles church property, church funds and memorial bequests (foundations), within the limits of this Constitution and state laws.

Church authorities independently decide concerning the acceptance of memorial bequests which are intended for church purposes.

The Serbian Orthodox Church independently exercises control of its incomes and disbursements.

The property of the Serbian Orthodox Church serves only the aims of the Church, nothing can be taken from it in any form nor used for other purposes, except in cases of expropriation forseen by law.

ARTICLE 7.

The Serbian Orthodox Church is governed on the basis of:

(a) The Holy Scripture and Holy Tradition, according to the teaching of the Holy Orthodox Church;
(b) Rules of the Ecumenical Councils and by them all the rules of the Holy Apostles recognized as such, rules of the regional councils, and the rules of the Holy Fathers of the Church;
(c) Rules of the regional councils and synods inasmuch as were adopted by the Serbian Orthodox Church;
(d) Regulations of this Constitution;
(e) Regulations, rules and general rulings of the competent church authorities.

ARTICLE 8.

Organization of the Serbian Orthodox Church is church-hierarchical and church-administrative.

All the church spiritual, disciplinary and legal authority, in accordance with the canons and rules of the Serbian Orthodox Church, belongs exclusively to the hierarchy. This authority is exercised through its hierarchical representatives and organs.

ARTICLE 9.

Church offenses and penalties are those which are prescribed by this Constitution according to the canons of the Orthodox Church.

ARTICLE 10.

In the Serbian Orthodox Church there are church hierarchical and administrative authorities, bodies and organs:

1. Patriarch, Holy Bishop's Council and Holy Synod, High Ecclesiastical Court, Patriarchal Council and Patriarchal Board;
2. Diocesan Bishop, diocesan ecclesiastical court, diocesan council and diocesan executive board;
3. Bishop's vicar;
4. Parish priest;
5. Church congregational council and church congregational executive board;
6. Abbot and the monastery brotherhood.

ARTICLE 11.

All ecclesiastical authorities, bodies and organs of the Serbian Orthodox Church have their seals with the Church coat of arms in the center, and inscription encircling it as follows:

1. The Archibishop of Ipek, Metropolitan of Belgrade-Karlovac, and Serbian Patriarch;
2. The Holy Assembly of Bishops of the Serbian Orthodox Church;
3. The Holy Synod of Bishops of the Serbian Orthodox Church;
4. The Supreme Ecclesiastical Court of the Serbian Orthodox Church;
5. The Patriarchal Council of the Serbian Orthodox Church;
6. The Patriarchal Executive Committee of the Serbian Orthodox Church;
7. Orthodox Bishop (Metropolitan) of the Diocese (N) in (N);
8. The Ecclesiastical Court of the Orthodox Diocese of (N) in (N);

9. The Diocesan Council of the Orthodox Diocese of (N) in (N);
10. The Diocesan Executive Committee of the Orthodox Diocese of (N) in (N);
11. Orthodox episcopal district of (N) in (N);
12. The Serbian Orthodox Parish of (N) in (N);
13. The Serbian Orthodox Church congregation in (N);
14. Serbian Orthodox Monastery in (N);

In case of necessity the titles under points 11, 13 and 14 of this article can be changed. This is decided by the Holy Synod of Bishops upon recommendation of the jurisdictional Bishop.

Dioceses, monasteries and other institutions, which have their historical seals may retain them in further use.

ARTICLE 12.

The Serbian Orthodox Church is episcopal. Its main administrative division is composed of dioceses, both in regard to church hierarchical and church administrative aspect.

ARTICLE 13.

At the head of the Serbian Orthodox Church is the Serbian Patriarch, as its chief ruler. The title of the Patriarch is: The Archbishop of Pec., Metropolitan of Belgrad-Karlovic and the Serbian Patriarch.

At the head of each diocese there is the diocesan bishop as its direct rules. He is, according to the church canonical regulations, chief representative and guiding leader of all church spiritual life and church order in the diocese and he rules the diocese assisted by his clergy and laymen.

ARTICLE 14.

These are the Dioceses in the Serbian Orthodox Church

1. Belgrade-Karlovci, Archbishopric with its seat in Belgrade;
2. Diocese of Banat with its seat in Vrsac;

3. Diocese in Banja Luka with its seat in Banja Luka;
4. Diocese of Bachka with its seat in Novi Sad;
5. Diocese of Branichevo with its seat in Pozarevac;
6. Diocese of Budimlja Polim with its seat in Bjelo Polje;
7. Diocese of Gornji Karlovac with its seat in Plaski and Karlovac;
8. Diocese of Dabro-Bosna with its seat in Sarajevo;
9. Diocese of Dalmatia with its seat in Sibenik and Split;
10. Diocese of Zagreb with its seat in Zagreb;
11. Diocese of Zahumlje-Hercegovina with its seat in Mostar;
12. Diocese of Zvornik-Tuzla with its seat in Tuzla;
13. Diocese of Zletovo-Strumica with its seat at Stip;
14. Diocese of Zhicha with its seat at Kraljevo (Zhicha);
15. Diocese of Nish with its seat at Nish;
16. Diocese of Ohrid-Bitolj with its seat at Bitolj.
17. Diocese of Pakratz with its seat at Pakratz;
18. Diocese of Rashko-Prizren with its seat at Prizen;
19. Diocese of Skoplje with its seat at Skoplje.
20. Diocese of Srem with its seat at Sremski-Karlovci.
21. Diocese of Timok with its seat at Zajecar;
22. Diocese of Crna Gora and Primorje with its seat at Cetinje;
23. Diocese of Shabatz and Valjevo with its seat at Shabatz;
24. Diocese of Shumadija with its seat at Kragujevac;

Bishops of Dioceses in: Crna Gora-Primorje, Skoplje, Dabro-Bosna, and Zagreb have by their rank the title of Metropolitanate.

ARTICLE 15.

In addition to already mentioned dioceses in the previous article, under the jurisdiction of the Serbian Orthodox Church in spiritual and hierarchical aspect, also belong the following dioceses outside of the country:

1. The Serbian Orthodox Church in the United States of America and Canada, with its seat in Chicago or in the monastery of St. Sava, at Libertville, Illinois;
2. Serbian Orthodox Diocese of Budim. . . .
3. Parts of the Vrshatz and Temisvar Diocese outside the borders of Yugoslavia, with its seat in Temisvar;
4. The Czech-Moravian in Orthodox Diocese in Czecho-Slovakia;
5. The Serbian Orthodox Vicariate of Skadar with its seat at Skadar (Skutari);
6. The Serbian Orthodox Churches, Church congregations, and parishes outside the borders of Yugoslavia (Churches in the Diaspora).

Questions of an organizational material, and of other matter which eminate from the former relations with the Diocese of Budim (pt. 2.), and parts of the Diocese of Temisvar (Romania) and Vrshatz outside the borders of Yugoslavia, as component parts of the former Metropolitanate of Karlovci, will be decided by the Holy Bishops Assembly in accordance with the need in agreement with the Patriarchal Executive Committee, and with the concordance with other competent factors.

ARTICLE 16.

Decisions of establishing, naming, liquidating, reorganizing, and the seat of the dioceses, and establishing or eliminating of position of vicar bishops, is decided upon by the Holy Council of Bishops, in agreement with the Patriarchal Council.

ARTICLE 17.

A Diocese, in the church-administration sense, is comprised of Episcopal Districts, church congregations, parishes, and monasteries.

ARTICLE 18.

The episcopal district is comprised of a determined number of church congregations and parishes under the supervision of a bishop's district deputy.

ARTICLE 19.

The organizing, naming, and discontinuing, and changes in the Episcopal Districts is decided by the Diocesan Bishop in agreement with the Diocesan Ecclesiastical Court and the Diocesan Executive Committee, of which he shall inform the Holy Synod of Bishops and the Patriarchal Executive Committee.

ARTICLE 20.

A church congregation is comprised of adherents of the Serbian Orthodox Church with a priest on a specified territory, which may include one or more localities and having as its aim the caring of the needs for the church.

The decisions about founding of a church congregation is made by the Diocesan Bishop in agreement with the Ecclesiastical Court and the Diocesan Executive Committee, of which he informs the Holy Synod of Bishops and the Patriarchal Executive Committee.

ARTICLE 21.

A church congregation is comprised of one or more parishes.

Parishes in one locality make up one church congregation. Where there are more than 50,000 Orthodox souls, more than one church congregation may be organized.

ARTICLE 22.

A parish is a community of Orthodox persons which exists under the spiritual guidance of a parish priest.

There can be more parishes in one locality, and more localities may comprise one parish and one church congregation.

ARTICLE 23.

A parish is made up of at least 300, and at most 500 Orthodox families. Exceptions can be made in those places and sections where the terrain and other conditions do not permit such a grouping of parishes.

A family is every separate Orthodox household: Couples with or without children, or any family unit which has one head and single persons who have reached their majority (in age) who conduct a separate household.

ARTICLE 24.

The Diocesan Bishop, in agreement with the Diocesan Ecclesiastical Court, and the Diocesan Executive Committee, renders decisions on the forming of new and the discontinuance and reapportionment of old parishes. The Holy Synod of Bishops and the Patriarchate Executive Committee shall be informed.

ARTICLE 25.

Every Orthodox Christian belongs to the parish in which he is permanently settled (domiciled).

ARTICLE 26.

The parish has its parochial church. More parishes may have one mutual church. If there are more churches in one parish, only one of them is considered the parochial church; all the others are subordinate.

ARTICLE 27.

Exceptionally and temporarily and upon the decision of the Diocesan Bishop, parishes which do not have their church can make use of the monastery temple as a parish church. In such a case the congregation of that parish is duty-bound to supply the temple with all its needs, inasmuch as it serves as the parish church. In such places the head of the monastery, by his position, joins the church-congregational executive committee.

ARTICLE 28.

A parish has its office with its own birth-record books, church protocol records, and other prescribed books, and its seal.

If there are more parishes attached to one church, there is only one parish office with one set of record-books and other official books and one seal.

ARTICLE 29.

A monastery is a consecrated place with a church and other buildings, as a community of the monastic order, which are united in one spiritual fraternal community bound by solemn vows of abstinence, poverty, and obedience, and dedicated to prayer and toil.

ARTICLE 30.

The founding of a new monasteries, as well as the merging of existing ones, is performed by the Diocesan Bishop, and he informs the Holy Synod of Bishops which grants the final approval.

For the founding of new monasteries there must be assured beforehand the material resources for its existence and proper life of the community.

ARTICLE 31.

Priories are separate monastery properties, with a church or without one. They are an integral part of their monasteries and are under their management.

ARTICLE 32.

All decrees for the monasteries in this constitution are valid monasteries as well as for convents.

ARTICLE 33.

Buildings dedicated to the service of God, church offices, church educational and charitable institutions, foundations for church use and needs, Episcopal, monastic and parochial homes, Orthodox cultural-historical monuments (monastic and church lands, etc.), Orthodox cemetaries, and landscape of all of the above mentioned institutions are tax exempt.

ARTICLE 34.

The Holy Synod of Bishops publishes an official journal of the Serbian Orthodox Church. Detailed regulations relating to it are prescribed by the Holy Synod of Bishops in agreement with the Patriarchal Executive Committee.

ARTICLE 35.

For the submission of permissable appeals against the decisions and verdicts of church authorities, insofar as another time limit is not ordered by this constitution, a time limit of fourteen days is hereby prescribed, counting from the day following the day of notification. If the appeal is submitted within the prescribed time to the post office with a return receipt requested or registered, it is considered that it was duly submitted. Appeals are submitted through the authority which has issued the verdict or decision.

ARTICLE 36.

Persons of the monastic order cannot own any real estate. Upon the death of a monastic person, all his personal effects and wordly goods belong to the monastery, inasmuch as he has not already disposed of them during his lifetime.

ARTICLE 37.

A Bishop can consider as his property, hold it, and manage it during his lifetime only that which he himself has acquired. Of such personal property a Bishop may in his testament will one-third freely according to his own discretion; the second one-third he is obliged to will for the needs of his Diocese; and the third one-third he is obliged to will to foundations or independent funds for the general needs of the Church.

A Bishop who is not a Diocesan Bishop is obliged to will to any Diocese the second one/third of his belongings.

ARTICLE 38.

If a Bishop dies without a Will, from his real estate and personal belongings, funeral expenses will be paid and all of the debts he left, and the balance will be divided by the Holy Synod of Bishops according to the needs of the Church.

Vestments of a Bishop, his library and other church goods, after his death, belong to his diocese.

ARTICLE 39.

All members of the Patriarchal, Diocesan, and Church congregation councils, except ordained persons, then secretaries and clerks of all church offices upon assumption of their duties, that this oath:

"I, (name and surname), swear by the Almighty God that I will be loyal to the Holy Orthodox Church, that I will conscientiously obey all Church Canons, Church constitution, and other Church laws and regulations, that I will carry out correctly my duties, guard official secrets, and always protect and defend the interests of the Serbian Orthodox Church. As I do this, so may God help me in this and the other world."

Members of Ecclesiastical Courts (Bishop's Deputies, Church prosecutors, Court secretaries, honorary members as well as alternate members), except the Bishop take this oath:

"I, (name and surname), swear by the Almighty God that I will be loyal to the Orthodox Church, that I will carry out my duties correctly and guard official secrets, and that I will, in the dispensing of justice, regardless of the persons involved, will hold to God's law, the Holy Canons, the Church Constitution, and other Church regulations. As I do this, so may God judge and help me."

All named persons take the oath before the president of the bodies, or before his deputy, and put into his hands a signed oath, which he verifies and places in the archives.

ARTICLE 40.

The Church fulfills its needs:

1. Receipts from Church property of all kinds, as well as from papers of value (securities);
2. Church taxes;
3. Assessments from Church congregations and monasteries;
4. Donations and bequests;
5. Receipts from Church foundations and institutions.

ARTICLE 41.

For official acts of Church authorities and in hierarchial and self-governing spheres, the only tax which is payed, is the one which Church authorities prescribe.

II. THE STRUCTURE OF AUTHORITIES, BODIES, AND ORGANS OF THE SERBIAN ORTHODOX CHURCH.

1. The Patriarch

ARTICLE 42.

The Patriarch is elected from among the Serbian Diocesan Bishops, who have rules Dioceses at least five years.

ARTICLE 43.

The election of a Patriarch is done by an electoral Assembly, from among three candidates, who are nominated by the Holy Assembly Bishops of the Serbian Orthodox Church at a meeting at which there is present at least two-thirds of the Diocesan Bishops, under the presidency of the oldest member of the Assembly a Metropolitan, or if such is not present, the oldest Bishop member of the Holy Assembly Bishops.

The names of the three nominated candidates are submitted in writing to the Electoral Assembly by the Holy Synod Bishops.

ARTICLE 44.

The Electoral Assembly is comprised of:

1. All active Diocesan and Vicar Bishops of the Serbian Orthodox Church;
2. The Dean of the Orthodox Theology Faculty in Belgrade;
3. Rectors of Serbian Orthodox Seminaries;
4. The President of the Central Federation of Diocesan priests' association.
5. Bishops deputies of the cities of: Belgrade, Skoplje, Cetinje, Zagreb, Sarajevo, Pech, and Stremski Karlovci.
6. The abbots of monasteries: Zicha, Studenica, Dechani, Patriarchate of Pech, St. Naum, Mileshevo, St. Vasilijeo of Ostrog, Krusedol, and Krka.
7. Director of the monastic school and;
8. All members of the Patriarchal-Executive Committee and all vice presidents of Diocese Councils, inasmuch as they are not already members of the Patriarchal-Executive Committee.

Ordained persons mentioned in this article can be members of the Electoral Assembly if they are not under investigation or canonical suspension.

ARTICLE 45.

The Electoral Assembly meets in the capital, Belgrade, or in another place chosen by the Holy Assembly of Bishops for the election of a new Patriarch, at least within three months from the day when the Patriarch's throne became vacated.

The Electoral Assembly is convened by the Holy Synod of Bishops by a written act, in which the day, time and place are then stated of the meeting of the Electoral Assembly is specified. The invitation is sent along with a proof of receipt twenty days prior to the meeting of the Electoral Assembly.

ARTICLE 46.

The Electoral Assembly is presided over by the eldest member of the Assembly, a metropolitan, and if none be present, then the eldest bishop by consecration.

The president opens the Electoral Assembly. Upon invitation by the presiding bishop, the Electoral Assembly elects from its midst two secretares of whom one is a clergyman and one layman, and two members to verify the minutes, of whom also one is a clergyman and one a layman; the presiding bishop together with these persons, examines the credentials of the present members and handles the affairs of the election.

Following this, the president calls upon the secretary to read the decision of the Holy Synod of Bishops concerning the summoning of the Electoral Assembly, and also the list of invited and present members of the Assembly.

ARTICLE 47.

When it is established that at least two-thirds of the Holy Assembly of Bishops is present and also a majority (one over half) of the members of the Electoral Assembly, the Electoral Assembly begins with the invocation of the Holy Spirit. In case the quorum is not met, the election is postponed and the subject is returned to the Holy Assembly of Bishops to designate the time for a new election.

Before approaching the election, members of the Electoral Assembly, excepting the Bishops, take in the Assembly the following oath:

> "I (name and surname) do solemnly swear by Almighty God and by all which is most holy, and most dear to me in this world that in the deliberations regarding the election of the Serbian Patriarch, have in view only the good and the interests of our Holy Orthdox Church, and the Serbian people, and the fatherland, and that I will give my vote only to that candidate about whom I am convinced that he will most conscientiously and best perform the duties of the Serbian Patriarch. As sincerely as I act, so may the Lord God help me in this and in the other world."

After the invocation of the Holy Spirit and taking of the oath, the President of the Electoral Assembly reads the act from the Holy Synod of Bishops by which they are informed of the names of the three candidates nominated by the Holy Assembly of Bishops for the election of a new Patriarch.

ARTICLE 48.

In the election of the Serbian Patriarch, only the members prescribed by this constitution can be present and can participate.

Of the absent members justfibly prevented from being present personally, only a Bishop can authorize, in writing, one of the present Bishops to vote in his name.

ARTICLE 49.

The election of one of the three candidates nominated by the Holy Assembly of Bishops is conducted by secret paper ballots which will be distributed by the secretary to the present members of the Electoral Assembly.

The secretary calls the roll of the members of the Assembly—according to the list; then every member submits his ballot in the box on the table of the President.

The counting of the ballots is performed by the President together with the two members elected to verify the minutes (art. 46). The President takes out one slip at a time from the box and reads aloud the name of the candidate written thereon, and then he hands the slip to the other two members who also read aloud the names of the candidates. The secretary immediately enters in the minutes the number of slips handed in and the number of votes received by each candidate, and also the number of blank slips, if any.

Ballots which are submitted for candidated not monimated in accordance with article 43 of this Constitution shall be considered void.

ARTICLE 50.

The candidate who receives an absolute majority of the votes is elected the Patriarch.

If among the nominated candidates none receive an absolute majority of votes, then another vote is taken between the two with the highest number of votes. In case that in the first balloting two candidates receive an equal number of votes, eligible for the second ballot are: The candidate who received the largest number of votes, and the one of the other two who have received an equal number of votes, who ever has seniority either by rank or by episcopal consecration. If all three receive an equal number of votes, in the second balloting are entered the two candidates, who by their rank or by their episcopal consecration are eldest.

In case that even in the second balloting both candidates receive an equal number of votes, then the election between these two is conducted by drawing.

ARTICLE 51.

The name of the elected Patriarch is announced by the President of the Election Assembly, who closes (adjourns) the meeting of the Assembly.

ARTICLE 52.

The minutes of the Election Assembly are signed by the President, Secretaries and certifiers of the minutes, elected in accordance with Article 46 of this Constitution.

The acts (records) and the minutes relating to the work of the Election Assembly are preserved in the archives of the Holy Bishops Synod and a certified copy in the archives of the Patriarchate Executive Committee.

ARTICLE 53.

The next day, at a solemn holy pontifical liturgy, the Patriarch is seated (invested) in the manner as it is prescribed by the Holy Bishops Assembly.

After these rites, the newly elected Patriarch takes over the rights and duties of the supreme head of the Serbian Orthodox Church.

ARTICLE 54.

The Patriarch has within his Bishopric all the rights and duties of a Diocesan Bishop, and he rules in it with the assistance of his Vicar Bishops.

ARTICLE 55.

The Patriarch, as the supreme head of the Serbian Orthodox Church, besides the rights (privileges) given him by the canons and church regulations, also has the following:

1. Represents the Serbian Orthodox Church before the other autocephalous churches;

2. Represents the Serbian Orthodox Church at Church, State and People's celebrations;
3. Maintains the unity of the hierarchy of the Serbian Orthodox Church;
4. Consecrates, in accordance with church's prescribed rules, in person or through authorized Bishops, persons elected as Diocesan or Vicar Bishops;
5. Consecrates Holy Chrism for the entire Serbian Orthodox Church;
6. He grants leaves to Diocesan Bishops outside of their Diocese;
7. He wears as a special church decoration, a white head-shroud, biretta, with a cross and a pictorial image of all Serbian Saints, presented by the State to the first Serbian Patriarch upon restoration of the Serbian Patriarchate, which remains as an inheritance to all Serbian Patriarchs;
8. He leads at church officials and is called "Holiness" and "Your Holiness";
9. He is mentioned at pontifical liturgies by Bishops in the entire Serbian Orthodox Church;
10. He bestows church decorations and honors, in accordance with the regulations prescribed by the Holy Bishops Assembly;
11. Appoints by decree clerks and officials according to this Constitution;
12. Rules churches in foreign missions where there is no Serbian Orthodox Diocese.

HOLY ASSEMBLY OF BISHOPS AND HOLY SYNOD OF BISHOPS

a.) General and Mutual Regulations

ARTICLE 56.

The Holy Assembly of Bishops is composed by all diocesan bishops under the presidency of the Patriarch.

ARTICLE 57.

The Holy Assembly of Bishops, as the highest hierarchical body, is legislative authority in the matters of faith, officiation, church order (discipline) and internal organization of the Church, as well as the highest church juridical authority within its jurisdiction (Article 69 sec. 28).

ARTICLE 58.

The Holy Synod of Bishops is composed of the Patriarch, as the president, and four diocesan bishops, as members.

Members of the Holy Synod are elected by the Holy Assembly of Bishops for a two year period, alternating two each year.

Meetings of the Holy Synod of Bishops are held in smaller composition with two members under the presidency of the Patriarch or in full complement of all the members.

Members of the Holy Synod of Bishops have the right on traveling expenses and perdiem when they work.

ARTICLE 59.

The Holy Synod of Bishops is the highest executive body (administrative and controlling) as well as juridical authority within its jurisdiction (Article 70, sec. 35).

The Holy Synod of Bishops decides under the presidency of the Patriarch of regular and special sessions of the Holy Assembly of Bishops.

ARTICLE 60.

The Holy Assembly of Bishops can promulgate fully valid decrees (decisions), except the election of Bishops (Article 105), when there is present a majority of all Diocesan Bishops.

The Holy Assembly of Bishops and Holy Synod of Bishops makes its decisions unanimously or by a majority of votes. When there is an equal division of votes, the vote of the President decides.

ARTICLE 61.

When the Patriarch, for any reason whatsoever, is temporarily prevented to perform his duties as the President of the Assembly, or in the Synod, he is replaced by his authorization, by the oldest consecrated Metropolitan and member of the Assembly, or of the Synod, and if such does not exist, the oldest Bishop by consecration and member of the Assembly, or of the Synod.

ARTICLE 62.

If the Patriarch is prevented from performing his duties for a long and sustaining period of time, or if the Patriarchal throne is vacated, the authority of the Patriarch is performed by the Holy Synod of Bishops which announces that fact to the Diocesan Bishops and informs the State Authorities. The presiding duties of the Patriarch in the Holy Assembly of Bishops and the Holy Synod of Bishops is performed by the oldest, by consecration, by the member of the Holy Synod of Bishops Metropolitan, or the oldest by consecration Bishop, if there is no Metropolitan.

In such cases it is not possible to promulgate church law, decrees, laws and principle decisions.

ARTICLE 63.

If the Holy Assembly of Bishops or the Holy Synod of Bishops because of urgent need which cannot be delayed, exceptionally as in cases mentioned in Articles 61 and 62, must promulgate some Church-law decree, regulation or basic directive for the Church, that is to be submitted later to the Patriarch for his consideration and approval. In case of his disapproval, the subject is given over to the Holy Assembly of Bishops for consideration and final decision, under the presidency of the Patriarch.

ARTICLE 64.

All the decisions of the Holy Assembly of Bishops and of the Holy Synod of Bishops of canonical and church nature, in regard to faith, officiation, church order and internal organization of the church, are valid and final.

ARTICLE 65.

All decrees of the Holy Assembly of Bishops and Holy Synod of Bishops are recorded in special minutes (protocol). Those minutes are signed by all members who attended and made decisions.

ARTICLE 66.

Holy Assembly of Bishops and Holy Synod of Bishops perform their duties (tasks) directly, or through organs and offices subservient to them.

ARTICLE 67.

The Patriarchal office conducts the business of the Holy Assembly of Bishops and the Holy Synod of Bishops and the office of the Patriarch, all under the direct supervision of the Patriarch.

ARTICLE 68.

The Holy Assembly of Bishops and Holy Synod of Bishops may call into their meetings for expert opinion, ordained and Lay persons who are not members of those bodies.

b) JURISDICTION OF THE HOLY ASSEMBLY OF BISHOPS

ARTICLE 69

The Holy Assembly of Bishops, whose purpose is noted in Article 57 of this Constitution:

1) interprets the Orthodox Church Teaching, adhereing in this to the regulations which the Holy Church, based upon Holy Scripture and Holy Tradition has established;

2) regulates the enternal and external mission of the Church for the strengthening, defense and propagation of the Orthodox Faith and purity of Christian morals; establishes for this the necessary organs and founds necessary foundations, institutions and societies;
3) prescribes the teaching plan and program of religious education and provides for the religio-moral training of the youth and faithful;
4) prescribes the qualifications for candidates for all regular, special, and missionary church positions of service;
5) founds theological and monastic schools;
6) regulates all questions of ritual according to general church rules, and in the spirit of the Orthodox faith;
7) founds institutions and foundations: for the making of church arts-icons and all church utencils, for the publishing of divine service books, for perpetuating church singing, and for other church needs; prescribes rules for the establishing of church museums, for preserving and restoration of church antiquities and monuments;
8) canonizes saints and prescribes the service for their commemoration;
9) interprets canonical-ecclesiastical rules, those which are general and obligatory, and particular ones, and publishes their collections;
10) prescribes the duties and renders disciplinary regulations for the priesthood and all other ecclesiastical-heirarchical organs and personnel;
11) prescribes the dress for the higher and lower clergy of both branches;
12) prescribes the ecclesiastical-judicial procedure for all Ecclesiastical Courts;

13) issues rules in church marital affairs;
14) sets the rules for monastery life and for monastics residing in episcopal residences;
15) prescribes directives for service of confessors;
16) establishes in agreement with the Patriarchal council institutions for orphans and uncared for children of the clergy, and also institutions for other educational and benevolent purposes;
17) endeavors that the relation between the Church and State, and the mutual relations between faiths and denominations in the State be properly and without damage to the Orthodox Church regulated;
18) regulates and keeps an official list of candidates for the rank of bishop, and elects from among these worthy persons for diocesan and vicar bishops;
19) elects the rectors of Orthodox seminaries and directors of monatic schools;
20) elects, in agreement with the Patriarch, the chief Secretary of the Holy Assembly of Bishops and the Holy Synod of Bishops from among ordained persons;
21) exercises control over the work of the Holy Synod of Bishops;
22) prescribes the by-laws of the Synodal Fund (Art. 259), and approves its annual estimates of disbursements and incomes and the final accounts;
23) renders decisions concerning assessments of church congregations, monasteries, and dioceses in its sphere by agreements with the Patriarchal council, and in accordance with Article 40, pt. 3, and Article 263, and in agreement with the Patriarchal council provides for the satisfying of all needs of the Serbian Orthodox Church;

24) approves the by-laws of clergy associations of the white and monastic branches, and of all other societies which work for the benefit of the Orthodox Church, and exercises control over the same through the Holy Synod of Bishops;
25) prescribes its own agenda, and approves the agendas and by-laws for church-heirarchical organs, insofar as they are not otherwise so ordered by this Constitution;
26) settles disputes of jurisdiction between heirarchical and church-self governing organs;
27) ADJUDGES:
    A) In first and in final instances:
        a) disagreements between bishops and the Holy Synod, and between the bishops and the Patriarch;
        b) canonical offenses of the Patriarch;
    B) In the second and final instance:
        All matters which the Holy Synod of Bishops judged in the first instance;
28) Upon petition of the adjudged, and upon an explanatory motion of the jurisdictional diocesan Bishop, lessens the punishment pronounced by the Supreme Ecclesiastical Court, prior to their execution, to wit: to life-time suspension of sacerdotal functions, to defrockment from priestly orders, and to defrockment from priestly orders with excommunication from the church community;
29) performs other duties and functions which by this Constitution and by Church canonical regulations belong to its jurisdiction, and are not here enumerated.

c) JURISDICTION OF THE HOLY SYNOD OF BISHOPS

ARTICLE 70

The Holy Synod of Bishops is its jurisdiction which is marked in Article 59 of this Constitution:

1) maintains dogmatical and canonical unity and permanent connection with other Orthodox Churches;
2) protects and defends purity of teaching of the Orthodox Church on faith and moral, repel every incorrect teaching, religious and moral prejudice, superstitions, and harmful customs;
3) takes care of propagating Orthodox faith and supervises the internal and external church mission;
4) takes care of bringing closer and unity of Christian churches;
5) grade, permit, and according to its findings, reward books on religion, and books of religious-moral content in general;
6) hovers over the life and work of theological and monastic schools, institutions and foundations for preparation and education of candidates for all church services; elect teaching and educational personnel, and takes care for its education, appoints and suspends them from their duties;
7) takes care for furthering church literature, elects students for special studies and decides on reward for writers;
8) elects editor and supervises the official organ of the Serbian Orthodox Church and other official editions;
9) supervises on the matters on translation and edition of the Bible, work of the Holy Fathers and works of ecumenical and regional church councils;
10) hovers that all sacraments are minutely performed and takes care of solemnity, regularity and uniformity in performing church services;

11) grades and publishes service books and its translations;
12) grades and permits making of the holy icons for church and private use;
13) issues instructions for buildings of holy churches and monasteries;
14) gives instructions for making of church utencils, vestments and other church needs;
15) takes care of uniformity and perfecting of church singing, establishes and supervises singing schools;
16) takes care of preserving holy relics, of icons and other holy objects;
17) takes care of church art, church artistic monuments, antiquities and church museums;
18) gives instructions on rules in disputes of church marriage, and protects sanctity of church marriage;
19) takes care of church benevolent and educational foundations and institutions;
20) supervises the work of the Diocesan Bishop;
21) provides for the operation of vacant dioceses and appoints administrators of the dioceses;
22) gives rank of archimandrite and cross to protopresbyters, upon the written recommendation of the Diocesan bishop;
23) handles church funds and foundations which are entrusted to him;
24) takes care that relation between church and state and interconfessional relations in accordance with law punctually and without damage for the Orthodox Church are maintained;
25) prepares agenda and proposals for the Holy Assembly of Bishops, and executes its decisions;
26) forms committees of expert persons for preparing material for its work and also for the Holy Assembly of Bishops;

27) elects in understanding with the Patriarch clerks and office personnel for itself and for the Supreme Ecclesiastical Court;
28) proposes for approval of the Holy Assembly of Bishops its working plan;
29) takes care of all disputes on jurisdiction of church hierachical authority if by this Constitution was not differently regulated;
30) supervises work of all organizations to clergy of white and monastic order, as well of other organizations which are working for the interest of faith and church;
31) studies reports of the Supreme Ecclesiastical Court and forwards it to the Holy Assembly of Bishops with its opinion and recommendation;
32) submit annual report of its work to the Holy Assembly of Bishops;
33) finally decides of founding, uniting and separating of monasteries;
34) performs also all other duties according to this Constitution which Holy Assembly of Bishops especially entrust it;
35) JUDGES:
    A) In the first instance:
        a) discord among the bishops;
        b) canonical offenses of a bishop;
        c) disciplinary official offenses of its organs and judges its discords;
    B) In the last instance:
        disciplinary offenses of teaching personnel of theological schools;

3. THE SUPREME ECCLESTIASTICAL COURT

ARTICLE 71

The Supreme Ecclestiastical Court is a higher church authority for the transgressions of priests, monks, and civilians and for church-marital disputes, as well as all church disputes and conflicts in the internal church direction (administration) which do not come before the jurisdiction of the Holy Bishops Assembly and Synod.

The seat of the Great Ecclestiastical Court is in the residence of the Patriarch.

ARTICLE 72

The Great Ecclestiastical Court is permanent and is comprised of:

a) three Bishops members of the Holy Bishops Synod who are delegated by the Holy Bishops Synod, from its midst one of which it names (designates) as its President;
b) two honorary members, lay priests, and two of their alternates, which are chosen by the Holy Bishops Synod for four years;
c) one recorder, an ordained person (priest).

In case the President is prevented from attending, or a Bishop member they are replaced by Bishops, members of the Holy Bishops Synod who are named by the Holy Bishops Synod.

ARTICLE 73

As honorary members in the Supreme Ecclestiastical Court and their alternates, it is permissable to appoint Lay Priests who have graduated higher theological schools and if possible law schools and have at least ten years of church-court or church-administration, or at least fifteen years of parish or church-education service.

ARTICLE 74

As a (referent: reporter-recorder or secretary) of the Supreme Ecclestiastical Court there may be appointed an ordained person who has graduated higher theological and if possible law studies and has spent in church-court or church-administration service at least five years.

ARTICLE 75

As a member of the Supreme Ecclestiastical Court and as a recorder (secretary) cannot be relatives, among themselves nor with the President by blood up to the fourth grade inclusive, and by in-law or christening up to second grade, inclusive.

ARTICLE 76

The Great Ecclestiastical Court hands down fully valid decisions in a council comprised of a President, four members and a recorder (secretary).

In case of the absence of a recorder (secretary) for his duties, the President will appoint a clerk from the office of the Holy Bishops Synod of corresponding rank.

ARTICLE 77

A member of the Great Ecclestiastical Court, who is personally interested, or has participated in the investigation, or has judged (the same) in a lower instance (court) cannot adjudicate that subject.

ARTICLE 78

The President, or his alternate, and members of the Great Ecclestiastical Court in deciding, give their opinion completely independently.

The Court brings about its decisions by a majority of votes. The voting starts with the youngest member of the Court.

ARTICLE 79

The Supreme Ecclestiastical Court, in the second and last degree (stage, presumably an appeal) considers, approves, adjusts, (changes) and annuls decisions and decrees of Diocesan Courts by its official duty or upon a submitted appeal.

Upon its official duty, the Great Ecclestiastical Court considers: (reviews)

1) decisions of Diocesan Ecclestiastical Courts which vote for the annulment of a marriage;
2) decisions of Diocesan Ecclestiastical Courts on the transgressions of priests of both orders ordering:
   a) the loss of his services, calling;
   b) the lifelong banning of priestly duties;
   c) the divestment of a priestly rank;
   d) the divestment of a priestly rank with the banishment (expulsion) from the church community,
3) decisions (a sentence) for a permanent banishment (expulsion) of a layman from the church community, and
4) decisions of Diocesan Ecclestiastical Courts which the competent Bishops transmits to the Great Ecclestiastical Court.

All other decisions and sentences of Diocesan Ecclestiastical Courts the Great Ecclestiastical Court considers and adjudicates only on an announced appeal.

ARTICLE 80

The Great Ecclestiastical Court decides on the exclusion of individual Diocesan Courts as well as on conflicts of jurisdiction between those courts and in such cases it orders which Diocesan Court will judge the case. In the same manner it decides on the exclusion of the President and members of the Great Ecclestiastical Court.

4. THE PATRIARCHAL COUNCIL

ARTICLE 81

The Patriarchal council is the supreme legislative representative body in matters of external (material-financial) church government.

ARTICLE 82

The Patriarchal Council is comprised of:

a) The Patriarch;
b) four members of the Holy Synod of Bishops or their alternates which the Holy Synod of Bishops may appoint;
c) the dean of the Orthodox Theological Faculty;
d) one rector of seminary;
e) one ordained person of the white clergy from each diocese;
f) the vice-presidents of the Diocesan councils; and
g) ten laymen

Members under (d) and (e) are appointed by the Holy Assembly of Bishops upon the recommendation of the Holy Synod of Bishops, and members under (f) upon recommendation of the diocesan Bishop.

Members under (g) are appointed by the Patriarch upon recommendation of the Holy Synod of Bishops and the Patriarchal Executives Committee brought forth in a joint meeting.

ARTICLE 83

The Patriarch calls the Patriarchal Council into session, and determines its place and time of meeting.

From the summons of the meeting of the Council there must elapse at least one month.

ARTICLE 84

The mandate of the members of the Patriarchal council is for six years. The Council is summoned in regular session every other year, and in special session according to need, to-wit:

a) when the Patriarch together with the Holy Synod of Bishops and the Patriarchal Executive Committee decide upon this;
b) when this is motioned in writing to the president by a over-half majority of the members of the Council, indicating the subjects to be decided. In such a case, the meeting must be called at latest in thirty days.

ARTICLE 85

The president of the Patriarchal Council is the Patriarch; i.e.; his legal deputy (Art. 61 and 62).

The Council elects from its midst the vice-president from among the lay members, and four secretaries, two of which are ordained and two lay persons.

ARTICLE 86

The Patriarchal Council renders valid decisions if there be present at the meeting over-half majority of all members. Decisions are rendered by majority votes of those present. In case of tie, the presiding voice decides. He also announces the decisions.

ARTICLE 87

Should the Patriarchal Council render a decision which, by the opinion of the Holy Synod of Bishops, is contrary to church rules, or is not in agreement with the principles of the Orthodox Church, the Patriarch withholds the execution of such a decision and returns the matter to the Council for re-decision. However, should the Patriarchal Council hold to its first decision, the Patriarch will, by evaluation of the Holy Synod of Bishops, submit the matter to

the Holy Assembly of Bishops, which is empowered to invalidate such a decision of the Patriarchal Council, should it find it to be against the rules and principles of the Orthodox Church.

ARTICLE 88

The meetings of the Patriarchal Council are public, except in cases when the Council itself decides that they be secret.

ARTICLE 89

The President of the Patriarchal Council conducts the meetings according to the agenda and preserves order during the work of the council.

ARTICLE 90

The Patriarchal Council, in the performance of its powers:

1) issues, with the priorly received agreement of the Holy Assembly of Bishops, regulations concerning the benefits of active and pensioned parish clergy, teaching personnel of seminaries, monastic and other schools, personnel of ecclesiastical courts, diocesan and vicar Bishops and of the Patriarch;
2) establishes the positions of clerks and other officials for the external church government, and issues regulations concerning their official relations, and also of their active and retirement benefits;
3) issues, with prior concent of the Holy Assembly of Bishops, regulations concerning the pension fund of Bishops and of all other church-hierarchical and self-governing clerks and officials, as also of the support of their widows and orphans;
4) prescribes rules of discipline for officials of external church government;
5) issues, with prior consent of the Holy Assembly of Bishops, regulations concerning the governing, handling, control and supervision of church funds, memorial bequests (foundations) and benefices;

6) provides for the material means to cover all the needs of the entire Serbian Orthodox Church in accordance with the regulations of this Constitution, and issues decisions of assessment upon the church congregations and monasteries, or upon dioceses in accordance with Article 69, pt. 24, and Article 263;
7) prepares its own agenda for its work;
8) approves within its jurisdiction regulations, by-laws and agendas which are issued by the appropriate lower bodies and organs;
9) cooperates with the Holy Assembly of Bishops in the changing and ammending of the Constitution of the Serbian Orthodox Church;
10) cooperates with the Holy Assembly of Bishops in the establishing of institutions and foundations, whose maintenance falls upon the burden of estimates of disbursements and incomes for general needs of the Church;
11) renders the final decision, in agreement with the Holy Assembly of Bishops, concerning the mortgaging and alienating of church real estate properties which are designated for the general needs of the Church, and approves such decisions with regard to diocesan, monastery, and church congregational properties, and in both instances, if the sum exceeds 2,000,000 dinars;
12) examines and approves the final accounts for the general needs of the Serbian Orthodox Church which are submitted to it by the Patriarchal Executive Committee, and performs other functions of general church government insofar as they do not by this Constitution belong in some other jurisdiction.

5. THE PATRIARCHAL EXECUTIVE COMMITTEE

ARTICLE 91

The Patriarchal Executive Committee is the supreme executive (governmental) and supervisory) authority over church-self governing orgains and is the Executive organ of the Patriarchal Council.

ARTICLE 92

The Patriarchal Executive Committee is comprised of:

a) the Patriarch, or his legal deputy (Art. 61 and 62) as the president;
b) two members of the Holy Synod of Bishops;
c) one representative of the monasteries;
d) three priests, and
e) seven laymen

Members under (b), (c), (d) and (e) have alternates in the same number and position.

Members of the Holy Synod of Bishops are appointed by the Holy Synod of Bishops from their own midst, while all the remaining members and their alternates are appointed by the Patriarchal Council from its own midst, for a term of six years.

ARTICLE 93

The Patriarchal Executive Committee is obliged to fulfill its activities up until the new members of the Patriarchal Executive Committee be appointed and installed.

ARTICLE 94

The Patriarchal Executive Committee elects for itself from among its lay members a vice president, if possible from the seat of the Committee or from a nearby locality.

ARTICLE 95

The Patriarchal Executive Committee may have for its legal matters its legal advisor.

ARTICLE 96

The Patriarch, or his legal deputy, summons the regular meetings of the Patriarchal Executive Committee in the See of the Patriarch every year in the spring and in the fall, and to special meetings when He himself so decides, or when this be requested in writing by at least one half the members of the Patriarchal Executive Committee, indicating precisely the subject because of which the special meeting is being sought.

ARTICLE 97

If the Patriarch is convinced that some decision is contrary to the regulations of church rules or existing regulations, or that it is in conflict with the principles of the Orthodox Church, he is empowered to halt the execution of the decision and order a new debate. If even at this debate no agreement is reached, the Patriarch directs the subject to the Patriarchal Council for decision. In the event that the Patriarchal Council takes the same stand as the Patriarchal Executive Committee, then provisions of Article 87 of this Constitution are followed. If the matter is of an urgent nature, the Patriarch has the right of exception to send it to the Holy Assembly of Bishops, which is empowered, if it finds that an urgency exists, to render a final deciison on the matter.

ARTICLE 98

The Patriarchal Executive Board renders fully valid decisions if at the meeting there is present a over-half majority of all members. Decisions are rendered by a majority vote of those present. In case of a tie, the voice of the presiding decides. He also announces the reached deicision.

ARTICLE 99

In cases of necessity, and especially where the agreement of the Holy Synod of Bishops and the Patriarchal Executive Committee is required, the Patriarch or his deputy may call a joint meeting of both bodies for consultation and decision.

ARTICLE 100

Matters which cannot be postponed are decided in presidium, or rather in smaller executive committee comprised of the president or his deputy (Art. 61 and 62), two ordained and three lay persons. These members are elected by the Patriarchal Executive Committee from among its own midst, if possible from the Seat of the Patriarchate or from the nearest locality. Decisions in presidium or in this smaller committee are subsequently submitted to the Patriarchal Executive Committee for approval.

ARTICLE 101

The Patriarchal Executive Committee by its authority performs in the main these functions:

1) announces and executes, insofar as they belong to its sphere, the regulations and decisions of the Patriarchal Council;
2) controls the self-governing church organs in their work, and for this purpose as necessary sends its special representatives;
3) issues for the general needs of the Serbian Orthodox Church an estimate of the general disbursements and incomes, and compiles the final accounts, which it submits for approval to the Patriarchal Council;
4) approves for the needs of the dioceses their estimates of disbursements and incomes and final accounts of the dioceses, and approves the diocesan assessment dues from church congregations and monasteries;

5) approves the establishing of funds, the acceptance of memorial bequests (foundations) and their by-laws;
6) governs the funds, memorial bequests (foundations) and benefices, which are designated for the general needs of the Church, and exercises supervision and control over all church funds, memorial bequests (foundations and benefices;
7) sees that churches, monasteries, and all other church-religious institutions have legal proofs of ownership of their holdings;
8) prepares and compiles within the limits of its sphere reports and suggestions from the field of church self-government and submits them to the Patriarchal Council;
9) publishes printed reports on the state of all church funds and memorial bequests (foundations);
10) makes the final decision concerning the mortgaging and alienating of church real estate properties which are designated for general needs of the Church, and approves such decisions in regard to diocesan, monastery and church-congregational properties, in both cases, if the sum does not exceed 2,000.000 dinars;
11) makes the final decision concerning the writing off of debts which belong to the general property of the Serbian Orthodox Church, and for which it is proven that the debt cannot be collected from the creditor: and decides about the removal from inventory of such property, and approves such decisions with regard to diocesan, monastery, and church-congregational debts and removal from inventory of things, if the sum exceeds for debts 50.000 dinars, and for removal from inventory of things 100.000 dinars;

12) approves decisions in all cases of receiving or giving under lease properties of church-congregations, monasteries, and dioceses, if the leasing price be greater than 200,000 dinars annually, while for all other properties regardless of the amount of the leasing price;
13) decides about grievances in the final and last degree, upon those subjects which Diocesan councils; i.e.; committes decide upon in the first, i.e., second degree;
14) elects its permanent clerks and other officials, which the Patriarch appoints and confirms by decree;
15) governs by agreement with the Holy Synod of Bishops the educational and benevolent foundations for the entire Church, which are supported and maintained at the burden of estimates of disbursements and incomes for the general needs of the Church. Excepted from this are the monastic, theological and other religious-educational schools and foundations, whose government belongs in the jurisdiction of the Holy Synod of Bishops;
16) endeavors that funds and memorial bequests be established for the Church's benefit;
17) prescribes its own agenda and that of the Diocesan councils, which are approved by the Patriarchal Council;
18) performs according to need other functions of a material nature, insofar as they do not belong by this Constitution in some other jurisdiction.

DIOCESAN BISHOP

ARTICLE 102

Diocesan Bishop, in his archpastoral calling, in accordance with Orthodox teaching and the church rules, has full hierarchical authority in matters of faith and morals, officiation, and archpastoral care in his diocese.

ARTICLE 103

Diocesan bishop, as direct head and representative of his diocese, in cooperation of the clergy and people, administers and guides in every respect in internal and external way religious and church life in the diocese.

ARTICLE 104

As a diocesan and vicar Bishop can be elected that person:

a) who fulfills all canonical-legal conditions forseen for the rank of Bishop in the Orthodox Church;
b) who has regularly completed an Orthodox Spiritual Academy or Orthodox Theological Faculty;
c) who is a citizen of Jugoslavia; this condition does not apply for Bishops of Serbian Orthodox Dioceses outside the country;
d) who by his zealous church service, and by his exemplary life and dedicated work for the good of the Church and people has acquired general respect and who has shown ability for the position of Bishop.

ARTICLE 105

Diocesan and Vicar Bishops are elected by the Holy Bishops Assembly under the presidency of the Patriarch.

The election is conducted by the Holy Bishops Assembly when there is present two-thirds of all the Diocesan Bishops.

In the election of Bishops, if unanimity is not attained, voting is by secret ballot and is decided by the absolute majority of votes. If the votes are so divided, that no candidate receives an absolute majority of votes, then we immediately proceed to a narrower election between the two who received the largest number of votes. Which candidate will go into the narrower election of those who received an even number of votes is determined by the Patri-

arch, who also decides in the narrower election if the votes are evenly divided. An absent member of the Holy Bishops Assembly can empower, in writing, his vote to one of the present members of the Holy Bishops Assembly, with which one Bishop can be empowered with only one vote.

After the completion of the election, the Patriarch proclaims the election of the candidate.

ARTICLE 106

To the newly elected and conceerated Bishops, the Patriarch issues a Gramata, which is signed by the Patriarch and members of the Holy Bishops Synod. The Gramata is published in the official newspaper of the Patriarchate.

ARTICLE 107

All church jurisdictions and organs in the Diocese are subservient to the Diocesan Bishop.

ARTICLE 108

In addition to his rights and duties according to ecclesiastical and cannonical regulations, the Diocesan Bishop has in his jurisdiction:

1) To teach and enlighten the clergy and people in the diocese by words, deeds and by pastoral epistles;

2) Preserves, defends and maintains the Orthodox Faith in the people, repels every activity which is against the Orthodox teaching and which is harmful to the interests of the Serbian Orthodox Church.

3) Instructs and encourages the clergy and people to establish and organize religious-benevolent, spiritual-educational, patriotic and in general all beneficial institutions for the advancement of faith and morals in the people;

4) Sees to the regular and proper conducting of divine worship and of church order in general:

5) Endeavors that churches and monasteries be provided with holy corporals, holy Chrism, holy vestments and utensils and divine service books, and that all other necessities of the church be properly provided for without delay;

6) Orders as necessary that divine services be held during special church, national and state holidays;

7) Gives the blessing for the erection, where necessary, of churches, chapels, cemeteries, and endeavors that they be kept in good order;

8) Sees that churches, monasteries and chapels are built in the style that is adopted in the Serbian Orthodox Church, and that the churches, monasteries, and homes of the faithful are provided with icons in the Orthodox spirit;

9) Provides for the preservation of church antiquities;

10) Consecrates churches;

11) Ordains worthy persons into the priesthood, directs them to duty and gives them a gramata confirming this;

12) Recommends to the Holy Synod of Bishops for decoration ordained persons who have distinguished themselves by exemplary living and by their church-pastoral and religious-educational work, and bestows himself such decorations upon such persons which are within his authority to give;

13) Appoints from among worthy ordained persons of both branches, his deputy in all diocesan affairs, and relieves him of the same, informing the Holy Synod of Bishops;

14) Appoints the diocesan preachers and confessors for the clergy in the diocese;

15) Recommends, appoints, and confirms for the callings and duties in the Church and church-self governing bodies the officials, clerks and servants, in accordance with the regulations of this Constitution;

16) Appoints capable persons for teachers of religion in the schools in his diocese and exercises supervision over their work;

17) Upon recommendation of the monastery superior, gives blessing to worthy persons for entering the monastic order;

18) Gives within his jurisdiction blessings and dispensations in church-marital and other matters in accordance with church-canonical regulations and the decisions of the Holy Assembly of Bishops;

19) Judges ordained persons of both branches for lesser (disciplinary) offenses, and punishes for these deeds by: warning, rebuke, penance up to fifteen days, and suspension of sacerdotal functions up to one month, and for greater offenses he submits them to the Ecclesiastical Court; he judges the faithful and pronounces punishments of temporary dismissal from particular rights or honors in the Church; all of these decisions are final;

20) May lessen degree of final punishment pronounced by the Diocesan Ecclesiastical Court up to one half of the adjudged sentence;

ARTICLE 108

21) In accordance with the regulations of this Constitution, suspends from sacerdotal functions ordained persons accused before the court for offenses—(Article 219) and appoints their substitute;

22) Grants to ordained persons and officials in his sphere vacations;

23) Appoints substitutes for absent and ill monastery superiors, district deputies, and parish priests;

24) Exercises supervision over the work of the district deputies and clergy of both branches in the diocese;

25) Exercises supreme supervision over the work and life within church foundations of his diocese, recommends to the Holy Synod of Bishops the appointment and dismissal of teaching and counseling personnel of these foundations;

26) Exercises in his diocese canonical visitations in accordance with church rules, sends special representatives of capable and worthy persons and gives them instructions for the examination of parochical and episcopal district offices, monastic governments and church congregations;

27) Sees that all orders, decisions, and regulations of higher ecclesiastical authorities are duly and accurately announced and carried out;

28) With the help of the Diocesan Ecclesiastical Court and the Diocesan Executive Committee, he sees that all church delegated authorities and organs in the diocese perform their duties conscienciously and properly, and that all things are carried out in accordance with existing regulations;

29) Submits to the Holy Synod of Bishops a report with his suggestions concerning his archipastoral work, and concerning the general estate of the diocese.

ARTICLE 109

A Diocesan Bishop can have his deputy who represents him within the limits of his given authority.

ARTICLE 110

A Bishops deputy can be such ordained persons, of both orders, who have met the conditions prescribed for members of Ecclesiastical Courts in this Constitution.

ARTICLE 111

The Holy Assembly of Bishops may remove the Diocesan Bishop only by canonical verdict, or release him upon proof of incapacity, or by establishing proof of one of conditions provided for in (Article 104), as well as justified application for pension.

ARTICLE 112

Vacant Diocese is governed by administrator, who is appointed by the Holy Synod.

As long as the Bishop's seat is vacant, there cannot be exercised any Diocesan function which would affect Diocesan organization, nor can there be made, any important changes in the matters which were initiated during the administration of the former Diocesan Bishop.

ARTICLE 113

As soon as there is a vacancy in a Diocese, by any reason whatsoever, the Diocesan Ecclesiastical Court orders a Commission of three persons who are to accept, according to the inventory, all the assets of the Diocese. If something is missing, the Court will notify the Holy Bishops Synod, which will bring about a decision on restitutions (restoration or damages).

ARTICLE 114

All inventoried real and personal property shall be submitted in writing to the administrator or to the newly appointed Bishop.

ARTICLE 115

The Diocesan Ecclesiastical Court is an organ of the Diocesan Bishop for church adjudication and the affairs of the internal church direction.

ARTICLE 116

The President of the Diocesan Ecclesiastical Court is the Diocesan Bishop, who, upon his authorization, can be substituted by Bishop's Deputy.

When the Bishop is presiding, the Bishop's Deputy may participate in the deliberation as a member of the Court.

ARTICLE 117

The Diocesan Ecclesiastical Court is comprised of:

a) President;
b) Two honorary members, who have alternates;
c) Secretary-recorder;
d) Necessary members of lower personnel.

All the personnel of the Ecclesiastical Court are appointed or released by the Diocesan Bishop and of such actions he informs the Holy Synod of Bishops.

ARTICLE 118

Members of the Diocesan Ecclesiastical Courts, their alternates, and secretaries (recorders) can be appointed from the ranks of ordained persons who have at least completed the regular seminary school and have at least ten years of court or church-administrative service. Priority goes to those candidates who have higher theological and possibly legal education.

ARTICLE 119

As secretaries of the Diocesan Ecclesiastical Courts may be appointed, those persons who have finished a regular seminary and for officials, those persons, who have completed four grades of a middle school.

ARTICLE 120

The duty of ecclesiastical prosecutor is performed by an ordained person, who is appointed by the Bishop.

ARTICLE 121

Members of the Diocesan Ecclesiastical Court, their alternates, and Secretary (recorder) cannot be related, one to the other, nor with the Presiden in degrees of relation as stated in (Article 75).

ARTICLE 122

The Ecclesiastical Court makes full valid decisions when in a counsel made up of the President, or his Deputy, two members, and secretaries (or recorders) are present.

ARTICLE 123

Members of the Court are replaced by alternates (also honorary members) and in case of need also a secretary of the Ecclesiastical Court.

ARTICLE 124

A member of the Ecclesiastical Court who is personally interested, or one who has participated in the investigation of the subject being adjudicated, cannot take part in the judging.

ARTICLE 125

The Diocesan Ecclesiastical Court decides as to the exclusion of members of the Court. In that decision, the Diocesan Deputy, or secretary, replaces member of the court whose exclusion is sought. Should the exclusion of more than one member is sought, the exclusion is decided by the Supreme Ecclesiastical Court.

ARTICLE 126

The President and members of the Diocesan Ecclesiastical Court, cast their vote in the determination completely, independently, in accordance with the dictates of their conscience and in accordance with those rules prescribed in canon law.

ARTICLE 127

The Diocesan Ecclesiastical Court renders its decisions by majority of votes. The voting begins with the youngest member of the Court.

A member of the Court who does not agree with the verdict reached, has the right to state his reasons in writing in a separate opinion. Separate opinions are not given to the litigants.

ARTICLE 128

All decisions of the Diocesan Ecclesiastical Court, rendered at the meeting at which the Diocesan Bishop did not preside, are submitted to him for concurrence. If the Bishop does not concur with the decision of the Diocesan Ecclesiastical Court, he can direct the subject be submitted for a new trial by the Diocesan Ecclesiastical Court; and if the Diocesan Ecclesiastical Court holds to its first decision the Bishop can submit the subject with his explanation of his opinion, to the Supreme Ecclesiastical Court, which on the subject of this disagreement, render its mandatory direction in which case, the carrying out of the decision of the Diocesan Ecclesiastical Court is stopped until the Supreme Ecclesiastical Court rules.

ARTICLE 129

Decisions brought about at meetings of Ecclesiastical Courts are recorded immediately in the minutes which are signed by all of the members who judged or decided, and by secretary also.

Decisions and verdicts which are announced relative to those cases, are signed only by the President and Secretary.

ARTICLE 130

Subject cases are decided in the order as they came into the Court, except those which the President or his Deputy deem as urgent and as more important and which are placed on the agenda.

ARTICLE 131

The President sorts out all the cases reported to the court for adjudication. He opens and closes meetings, and conducts the business of discussion and adjudication, seeing to it that all business does belong to the sphere of the Ecclesiastical Court, and are completely completed, expedited in the prescribed time.

ARTICLE 132

In the area of administration of internal church affairs, the Diocesan Ecclesiastical Court works according to the instruction of the Diocesan Bishop.

ARTICLE 133

On the subject of transgressions of priests, the Diocesan Bishop, after completing necessary investigation through His organs, makes a decision if he tends that the subject matter comes within his jurisdiction, on the contrary, he hands the subject to the Diocesan Ecclesiastical Court for action.

ARTICLE 134

The Diocesan Ecclesiastical Court—

(a) As judicial organ:

1) Judges transgressions of priests of both orders;
2) Judges transgressions of the faithful which may call for expulsion from the church community for a certain period or permanently;
3) Judges, within its jurisdiction, conflicts on the validity, annulment and divorce of a church marriage;
4) Decides on disputes between priests, as well as disputes about parish income, and about real estate and other church property which is directed for the support of the clergy.

(b) As an organ of the Diocesan Bishop for the affairs of internal church government:

1) It supervises, at the direction of the Bishop, the parish clergy, parish offices, and Bishop's vicariates;
2) Announces and executes decisions of the higher Church authorities;
3) Assists the Diocesan Bishop in all the affairs of the direction and rule of the Diocese, and executes his orders in these affairs which belong to his personal jurisdictions;

4) Takes care of, in accordance with this Constitution, about the inventory of the Diocese in cases of transfer, pensioning, or the death of the Diocesan Bishop;
5) Brings about decision regarding any changes in Church Record Books.

ARTICLE 135

The decisions of the Diocesan Ecclesiastical Courts which are not subject to review by higher authorities are final, and they are executed by the subordinate Ecclesiastical organs.

8. THE DIOCESAN COUNCIL

ARTICLE 136

The Diocesan council is the representative body which deals with the affairs of the diocesan ecclesiastical autonomy.

ARTICLE 137

The Diocesan council is comprised of:

a) The Diocesan Bishop or his deputy;
b) Two members of the Diocesan Ecclesiastical Court;
c) One priest-monk;
d) One clergyman and one layman from each of the districts of the diocese;
e) Five laymen who are appointed by the Diocesan Bishop by agreement with the Ecclesiastical Court and the Diocesan Executive Committee.

Members of the clergy are appointed by the Holy Synod of Bishops, and Members of the layity are appointed by the Patriarchal Executive Committee, both groups of which are nominated by the jurisdictional Bishop.

Alternates for members under (c) and (d) in the same number and in the same prescribed manner, and for those under (d) from the same diocesan district.

ARTICLE 138

The president of the Diocesan Council is the Diocesan Bishop or his deputy, if the Bishop cannot attend the meetings at all.

In case the Bishop might be temporarily unable to preside at the meetings in the course of work by the Diocesan Council, he is substituted in presiding by the vice-president of the council.

The Vice-President from among the lay members, and two secretaries—one a clergyman, and one layman, are elected by the Diocesan Council amongst themselves by simple majority of votes.

ARTICLE 139

The mandate of the Diocesan Council members is for six years. The Diocesan Council is summoned by the Diocesan Bishop, i.e., administrator, into session at least once yearly in regular session, and in special sessions according to the need.

ARTICLE 140

The Diocesan Council may render valid decisions when a simple majority of members is present, and it renders decisions by majority votes. In case of a tie, the vote of the presiding member decides.

The Minutes of the Diocesan Council are signed by the president, secretaries, and by the two members of the Council elected by the Council for this purpose.

ARTICLE 141

The Diocesan Council, in addition to other functions prescribed by this Constitution has under its jurisdiction:

1) Concerns itself with ways and means for satisfying the material needs of the diocese;

2) Submits an estimate of income and disbursements annually for the needs of the diocese, compiles the final accounting, and sends them for approval to the Patriarchal Executive Committee.

3) For the needs of the Diocese sets the amount of assessments of church congregations and monasteries, and submits such decisions to the Patriarchal Executive Committee, which approves them in conjunction with the Holy Synod of Bishops;

4) Renders decisions concerning the incurring of debts and alienating of Diocesan properties, and submits them for approval to the Patriarchal Executive Committee if up to 2,000,000 dinars, and to the Patriarchal Council if over that amount;

5) Renders final decisions in the writing off of accounts which are due to the diocese, and for which it be proven that they cannot be collected, and of recording the disbursement of items of property—to wit: the writing off of accounts up to 50,000 dinars; the disbursement of things up to 100.000 dinars, while anything over these sums it submits its decision to the Patriarchal Executive Council for approval;

6) Decides concerning the initiating and cessation of law-suits, as also of reaching settlements with regard to diocesan property, but if the value of the suit, i.e., the settlement, be greater than 200.00 dinars, submits its decision for approval to the Patriarchal Executive Committee:

7) Issues directives, according to the regulations prescribed by the Patriachal Council, concerning the governing, handling and control of diocesan benefices, funds, memorial-bequests (foundations) and other various institutions;

8) Establishes diocesan funds and religious, benevolent, church-educational and other beneficial institutions and foundations:

9) Selects from its midst regular members for the Diocesan Executive Committee and their alternates;

10) Submits to higher jurisdictional and ecclesiastical authorities petitions, proposals and suggestions concerning the subjects and needs which affect the concerned diocese or the entire Church;

11) Submits to the Patriarchal Executive Committee a report of its work.

ARTICLE 142

In case it be impossible to summon the Diocesan Council, the opinions on urgent and important subjects can be sought from members of the council in writing.

ARTICLE 143

If a member of the Diocesan Council does not respond to an invitation and does not attend two consecutive meetings, the Bishop shall nominate in his place to the Holy Synod of Bishops, i.e., the Patriarchal Executive Committee, another person as member of the Diocesan Council, relevant to (Article 137-c) of the Constitution, i.e., he shall name the appointee in agreement with the Ecclesiastical Court and Diocesan Executive Board (Article 137-e) of the Constitution.

9. THE DIOCESAN EXECUTIVE BOARD

ARTICLE 144

The Diocesan Executive Committee is the executive (governing and controlling) authority in matters of external church government in the diocese and the executive organ of the Diocesan Council.

ARTICLE 145

The Diocesan Executive Committee is comprised of:

a) The Diocesan Bishop or his deputy;
b) One person of the monastic order;
c) Three members of the clergy;
d) Six laymen;

(Members under (b), (c), and (d) have the same number of alternates

ARTICLE 146

Regular members and alternates of the Diocesan Executive Committee are elected by the Diocesan Council for a term of six years. They are obliged to perform their duties until the appointment and installation of the newly-elected members of the Diocesan Executive Committee.

ARTICLE 147

The President of the Diocesan Executive Committee is the Diocesan Bishop or his deputy.

The Diocesan Executive Board elects its vice-president from among the regular members of laymen, if possible one who resides in the place of headquarters of the committee, or from a near-by community, and for secretary, a person with the necessary qualifications.

ARTICLE 148

The members and the secretary of the Diocesan Executive Committee may not be relatives as described in (Article 75).

ARTICLE 149

The Diocesan Bishop, i.e., the administrator of the diocese, summons the regular meetings of the Committee at the see of the diocese semi-annually, and in special session in the following cases:

a) When so determined by the president;
b) When so requested by at least one half the members of the Diocesan Executive Committee in writing, indicating the subject concerning which such a special meeting is being requested.

ARTICLE 150

Any member of the Committee who is prevented to comply with an invitation to attend a meeting is obliged to give timely notice to the president, who shall in turn and in case of need, invite an alternate to take the absent members place.

If a member of the Diocesan Executive Committee, i.e., a member alternate, neglects his duty and fails for three consecutive times to attend a meeting, the Diocesan Council shall at its first meeting elect another member in his place, i.e., alternate.

ARTICLE 151

In order that valid decisions be rendered, it is necessary that over half of the members of the Committee participate in its meeting.

Decisions are rendered by a simple majority of votes of members present. In case of a tie, the vote of the presiding officer decides.

The Minutes of the Diocesan Executive Committee are signed by the president, secretary and the two members of the Diocesan Executive Committee who were elected for this purpose (one clergyman and one layman).

ARTICLE 152

Matters which are of an urgent nature and cannot be postponed, are decided upon in presidium, or in smaller committee, comprised of: The Bishop or his deputy, one clergyman and one layman, from the headquarters see of Diocese or from a nearby community, which is elected by the Diocesan Executive Board from among its midst. Presiduim decisions and decisions of this smaller committee are submitted for supplemental approval to the Diocesan Executive Board.

ARTICLE 153

The Diocesan Executive Committee, in addition to functions prescribed by this Constitution has in its jurisdiction:

1) To be concerned about the material ways and means for the religious, benevolent, spiritual-educational and other beneficial institutions and foundations in the Diocese;

2) Governs and handles the benefices, funds and memorial bequests (foundations) of the Diocese according to church regulations;

3) Prepares an annual estimate of disbursements and incomes and final account for the needs of the Diocese and submits them to the Diocesan Council which approves the estimates and final accounts and submits them to the Patriarchal Executive Committee for final approval;

4) Oversees all church self-governing organs in the Diocese in the performance of their duties and towards this end dispatches when needed its representatives with necessary directives; and exercises control over those benefices, funds, memorial-bequests (foundations) which are entrusted for governing and handling to lower church-self-governing organs in the Diocese;

5) Examines and approves estimated disbursements and incomes of church congregations and monasteries;

6) Endeavors that accurate inventories be kept of church and church-self-governing properties in the Diocese, that all real property be provided with the prescribed legal proofs of ownership, and that all buildings and properties be insured against fire and other inclemency of the elements;

7) To forward with its opinion the decisions of Church-Congregational Councils dealing with the alienating and mortgaging of church property up to the amount of 2,000.00 dinars to the Patriarchal Executive Committee for approval, and over that sum, to the Patriarchal Council for approval;

8) Approves decisions of the Church-Congregational Councils concerning the writing off of accounts, which cannot be collected from the creditor, up to 50.000 dinars, and concerning the expendable items up to 100.000 dinars, and for sums over those amounts forwards such decisions with an opinion for approval by the Patriarchal Executive Committee.

9) Renders final decisions concerning the leasing of Diocesan properties up to 200.000 dinars, and approves such decisions of Church-Congregational Councils, and sums over that amount forwards its decision, or the decision of the Church-Congregational Council, for approval to the Patriarchal Executive Committee;

10) Approves decisions of Church-Congregational Councils concerning the initiating or cessation of litigations, as also concerning settlements relative to Church-Congregational properties, but if the value of the litigation or settlement is more than 200.000 dinars, forwards its decisions with its opinion for approval to the Patriarchal Executive Committee:

11) Approves the buliding of new buildings and greater repairs in church congregations;

12) Appoints when needed, in agreement with the Diocesan Ecclesiastical Court, a defense attorney for legal affairs in the Diocese;

13) As the first degree authority decides administrative disputes in the Diocese, in-so-far as they pertain *to external church government,* and decides upon the petitions and decisions of sub-ordinate organs;

14) Prepares and submits to the Diocesan Council a report of its work for the Patriarchal Executive Committee;

15) Determines the election day for Church-Congregational Councils;

16) Executes and announces the decisions, orders, and directives of the Diocesan Council and the Patriarchal Executive Committee;

17) Prepares a report and suggestions to the Diocesan Council;

18) Decides concerning the alienating and mortgaging of monastery properties as also the writing off of accounts and of writing off expendible items relative to (Article 212-2):

19) Concerns itself, together with the Ecclesiastical Court, that the necessary and possible trades and husbandry be developed in the monasteries.

ARTICLE 154

Every Diocese according to need can have its attorney with the qualifications of a judge in civil court, who is at the same time the attorney for affairs of the Diocesan Council and the executive of the said Diocese.

The Diocesan attorney represents the interests of the Diocese before the authorities in legal and judicial matters, and is obliged, upon request of either the Diocesan Ecclesiastical Court or the Diocesan Council and Committee, to give them has legal opinions.

ARTICLE 155

All decisions of the Diocesan Council and the Diocesan Executive Committee, rendered at meetings which were not presided over by the Bishop, i.e., administrator, are submitted to the Bishop, i.e., the administrator, for examination and approval.

ARTICLE 156

If the Diocesan Bishop, i.e., the administrator, is convinced that some decision or the Diocesan Council and the Diocesan Executive Committee is against church regulations, or that it is not in agreement with the fundamental teachings of the Orthodox Church, he is obliged to suspend the execution of such a decision and return the subject for renewal of decision. If even then an agreement cannot be reached, the Bishop, i.e., the administrator, directs the said subject to the Patriarchal Executive Committee for consideration and decision, and consequently in case of necessity that here too, the provision from (Article 97) of the Constitution be applied.

ARTICLE 157

The Diocesan Bishop may in cases of necessity for important diocesan matters convene the Diocesan Ecclesiastical Court and the Diocesan Executive Committee, in a joint meeting for counciling and decision.

ARTICLE 158

The clerks of the Diocesan Ecclesiastical Court and the Diocesan Executive Committee, are obliged to perform all work services of the Ecclesiastical Court, and the Diocesan Executive Committee, which the Bishop may order; in case of need, the Bishop may entrust to the clerks of one of these tow diocesan church bodies work-services which belong in the sphere of one or the other of these two bodies.

10. BISHOP'S DISTRICT DEPUTY (Vicar-General)

ARTICLE 159

The position of Bishop's District Deputy (vicar-general) may be held by member of the priesthood who:

a) Has completed satisfactorily the regular or higher theological school;
b) Has shown zeal in the performance of parochial or other church duties;
c) Is of good comportment and leads an exemplary life;
d) Has spent at least ten years in parochial or some other church services, but if he has higher theological training, at least five years.

ARTICLE 160

The Bishop's district deputy is appointed and relieved by the Diocesan Bishop.

ARTICLE 161

The Bishop's district deputy may have an assistant, a member of the priesthood, to assist him in all parochial and chancery duties as needed.

The Assistant is appointed and relieved by the Diocesan Bishop; The assistant has his own parish.

ARTICLE 162

In his district, the Bishop's district deputy (vicar-general), is obliged according to his jurisdiction:

1) To be concerned with the purity and strengthening of the Orthodox faith, with the proper and regular preaching, with the religio-moral development and education of the faithful;

2) To subdue all movements and actions directed against Orthodoxy and the interests of the Church;

3) To see to the preservation and encouragement of good customs, and of subduing and up-rooting harmful habits and vices among the people;

4) To endeavor that religio-benevolent and spiritual-educational foundations be organized in his jurisdiction, in accordance with local circumstances and needs, concerning which he gives his proposals and opinions to the Diocesan Bishop;

5) To see that divine worship be properly and regularly conducted, and that beauty, dignity and good order prevails in the churches;

6) To see that churches are properly furnished with necessary utencils and articles, and that parish offices are provided with proper official record books;

7) Oversees that the clergy perform their duties and behave in accordance with the requirements of the priestly calling, and that love, unity and mutual cooperation prevails among the priests;

8) Endeavors to remove every misunderstanding among the priests, to discuss lesser disagreements among them and to keep peace among them, and to forward greater disagreements to higher authorities;

9) To visit at least once a year all the parishes in his jurisdiction, at which time he carefully examines and oversees the pastoral, religious-educational, and administrative work of the parish clergy, also the work of the Church-Congregational-Councils and Church-Congregational Committees, and to submit as a result of his examination an accurate and detailed report with his remarks and suggestions to the appropriate diocesan authority;

10) To carry out investigations, upon direction from diocesan authorities, dealing with disciplinary and transgressionary matters and with the administrative affairs of the clergy, parochial offices, Church-Congregational-Councils and Church-Congregational Committees, as also of individuals;

11) To executive and announce all decisions, directives and orders of the Diocesan Bishop and diocesan authorities;

12) To mediate estranged couples, and decides concerning the abrogation of premarital examinations;

13) Keeps an accounting of clergy comportment in his district and submits an annual report of the same to the Jurisdictional Bishop;

14) Admonishes the clergy for neglect of official duties.

15) Authorizes leaves (vacations) for subordinate clergy for up to ten days annually of which he informs the Diocesan Bishop, while requests for longer vacations he forwards with his opinion to the Diocesan Bishop;

ARTICLE 162

16) Appoints temporary substitutes for vacationing, ill, and deceased parish priests until further orders from the Diocesan Bishop;

17) To call upon his own discretion or upon request of the clergy, and with prior consent of the Diocesan Bishop, gatherings of the clergy for fraternal discussions on

the needs and betterment of the Church, of pastoral duties, and of how to better strengthen in the believers the Orthodox faith, religious-moral feelings and attitudes, mutual love, patriotism, spiritual, education, and Christian virtues;

18) To submit an annual report with his opinions and suggestions to the Diocesan Bishop on the state of the churches and the church-pastoral work of the priests, and of his own work.

ARTICLE 163

The Bishop's District Deputy may take leave of his duties only with the knowledge and consent of his jurisdictional Bishop, who shall in such case appoint his substitute.

11. RECTOR

ARTICLE 164

At the head of every parish is the rector, who must reside in his parish, and who cannot distance himself from the place of his service without the knowledge and concent of the appropriate church authorities.

The calling of Rector may be permanent or temporary, both of which are appointees of the Diocesan Bishop.

ARTICLE 165

Any person may be appointed as temporary rector (parish priest who has completed the higher or regular theological school, and who has no cannonical impediments for Holy Orders.

To the position of permanent parish priest (rector) may be appointed that member of the clergy who has spent at least three years as an ordained priest or deacon, and who has passed the prescribed examination of practice, or who has been granted waivers of these requirements.

ARTICLE 166

The filling of a vacant parish with a permanent priest is done by concourse, which the Diocesan Bishop publishes in the official journal of the Serbian Orthodox Church.

Candidates with the qualifications above stated apply and submit the necessary documents to the Diocesan Bishop.

ARTICLE 167

Members of the priesthood with higher theological training are privileged to take the examination of practice for the post of permanent parish priest after two years of temporary parochial or diaconate service.

ARTICLE 168

The examination of practice for permanent parish priest is according to the regulations prescribed by the Holy Council of Bishops.

ARTICLE 169

The following are exempt from the examination of practice:

Professors of theological faculties and seminaries, teachers of religion who have passed the catechetical examination, members and secretaries of ecclesiastical courts, clerks of the Supreme Ecclesiastical Court, and higher clerks of the Holy Synod of Bishops, the Patriarchal Executive Committee and Diocesan Executive Committees, provided they have been ordained priests and occupied these positions for at least three years.

ARTICLE 170

By regulation parochial duties are performed by the white clergy, however, in case of a shortage of these, and where exceptional conditions require, the Diocesan Bishop may entrust the servicing of a parish to priest-monks, i.e., to the monastery brotherhood. Priest-monks who service parishes are supported by their monasteries, to which are due all incomes from those parishes.

ARTICLE 171

Where there are several parish priests attached to one church, the Diocesan Bishop appoints one of them as the elder of the church, who at the same time is in charge of the office of the parish jurisdiction. The head rector is responsible for order in the church and office of the parish jurisdiction.

ARTICLE 172

The Bishop may remove a permanent priest from a parish or transfer him only upon his own request or consent, or by judgment of the Jurisdictional Ecclesiastical Court.

The Bishop may transfer temporary parish priests according to need of services.

ARTICLE 173

Every parish may have a deacon. It is obligatory for the Bishop's cathedral and those churches so directed by appropriate Diocesan authorities to have a deacon.

Deacons are obliged to assist the rector (elder of the church) in the conducting of church administration, and are subordinated to him officially.

ARTICLE 174

Deacons are appointed in the same manner as temporary parish priests from among those who fulfill the conditions described in (Article 165). Years spent in the diaconate are recognized as years having been spent in parochial duties.

In addition to benefits from the church, deacons also have the right to benefits (stipends) as other clergy for participation in funerals and marriages.

ARTICLE 175

Every rector performs his parochial duties and fulfills his office duties independently, but concerning his official work he is under the direct supervision of the elder (first rector) of the church and the jurisdictional Bishop's district deputy (vicar-general), and under the supreme supervision and direction of his Diocesan Bishop.

ARTICLE 176

The Rector has basically the following duties:

1) He serves his parishoners as a good example in his personal and family life;

2) He regularly preaches the word of God and instructs his parishoners in the Church and at every good opportunity;

3) He serves regularly the Divine Liturgy and the daily church office, he administers the Holy Mysteries and sacramental rites for his parishoners in the Church and in the parish according to the regulations of the holy canons, church laws and rules of the church authorities;

4) He conducts general intercessions, thanksgiving services and requeim memorial services according to the church regulations and directives of church authorities;

5) He conducts processions and the carrying of the cross with hallowing of water in those places and where and how the custom prevails, he conducts prayers at the beginning and closing of the school year, performs the cutting of the Patron Saint "Kolac" on the Church "Slava" and on the feast of St. Sava, with the blessing of water;

6) He announces to the congregation in Church, the holidays that are celebrated and explains their significance;

7) Administers the religious-moral education and development of Orthodox youth out of school, and conducts religious classes in the schools, if they do not have a permanent teacher of religion;

8) He sees to the good order, pious and proper reading and chanting during divine-services, and to the cleanliness and graceful beauty in the churches and makes arrangements in this regard, as of also concerning the use, acquisition and maintenance of vestments, church vessels and utencils, service books, and especially concerning the support and maintenance of the cemetery and other consecrated places and church antiquities;

9) He takes care of the library of his church, of the spreading of religio-moral books among the parishioners, and zealously subdues the spreading of writings whose content is against the teachings of the Orthodox faith and morals;

10) He visits his parishoners to give pastoral counsel, and directs them unto christian benevolence; and in agreement with the Church-Congregational Council, he strives toward the organization of benevolent services and the founding of church-benevolent foundations;

11) He repels faithless and unorthodox propaganda and informs the Bishop's District Deputy of every attempt and manifestation directed against the faith, and in important cases also the Diocesan Bishop; he repels illigetimate living, drunkeness, blasphemy, cursing and all other bad habits among the people;

12) Reconciles quarreling and estranged couples;

13) Fulfills on time and decisions and directives of his superior authorities;

14) He keeps accurate and up-to-date, the record books of baptisms, pre-marital examinations, marriages and deaths, together with a parish register of homes, and other official books, keeping them in good condition and order; he issues excerpts and certificates, either by request of individuals or by official duty, and in accordance with the regulations regularly sends annual reports and statistical data concerning the status of the parish to the Diocesan Ecclesiastical Court;

15) Keeps a record chronical of his parish;

16) Appoints and dismisses the church sexton and chanter by agreement with the Church-Congregational Committee; instructs them, directs and supervises them in their work; in the event of a disagreement between the rector and the Church-Congregational Committee on the question of the canter and church-sexton, the dispute is decided with finality by the Diocesan Bishop.

ARTICLE 177

The position of permanent parish priest becomes vacant by transfer to another church service (duty), transfer by request, consent or judgment, by loss of the parish, retirement, and death.

An arbitrary absense from parochical duties for a period of longer than 15 days, or by not assuming the duties by the 21st day after having been appointed or transferred draws the penalty of loss of parish.

ARTICLE 178

In every Church congregation there exists a religious-benevolent Trustee-ship whose function is to disseminate religious and church consciosuenss and christian charity, as well as for other activities of the internal mission of the church. This trusteeship is appointed by the diocesan Bishop from the ranks of the faithful of both sexes. It is an organ of the Church-congregational Committee. The Religio-benevolent trusteeship has its fund, which is derived from the donations of the faithful and from aid which is given by the Church congregation. Further regulations dealing with the sphere of activity of the religio-benevolent trusteeship and the handling of his fund are prescribed in a special by-laws which was issued by the Holy Council of Bishops under AS No. 136/Min. of Sept. 13/26, 1932.

12. CHURCH-CONGREGATIONAL COUNCIL and the CHURCH-CONGREATIONAL EXECUTIVE COMMITTEE (Board)

a) Church-congregational Council

ARTICLE 179

The Church-congregational council is elected by the male and female members of the church congregation who are 21 years of age, and who have not lost church voting privileges.

ARTICLE 180

ELECTION RIGHTS at elections of the Church-congregational council is lost by the person:

1) who is not of a pious and moral life;

2) who consciously does not fulfill his church-religious duties and who does not fulfill his obligations toward the Church, family and his neighbors;

3) who, because of criminal activities in general, or because of some other criminal act, if such act was committed for self-interests or against the faith or against public morals, is under investigation, or who has been judged and sentenced, for the duration of the consequences of that judgment;

4) who lives in illigitimacy, or who is in a married state which has not been blessed by the Church;

5) who is under judgment or the consequences of a judgment decreed by church authorities;

6) who is under a guardianship or seizure;

7) who is under suspension by the regulations of this Constitution from the Church-congregational council or the Church-congregational executive committee, for the period of time as determined by the Diocesan Executive Committee;

8) who is a member of any society or organization whose work is directed against the Orthodox faith and the interests of the Orthodox Church.

Conditions stated in points 1, 2, and 8 are determined by decision of the Diocesan Executive committee upon considering grievance against the election slate.

ARTICLE 181

Every parish keeps a list of electors in accordance with provisions of this Constitution. This list is compiled by the Rector together with the Church-congregational Executive Committee, and based upon the parish books, each year during the first half of the month of May.

The list contains the name and sur-name, date of birth, occupation and address of every elector.

The list is publicly displayed for review in the parish office for 14 days of the second half of the month of May, concerning which parishoners are informed by announcement on the church doors, and by vocal announcement by the priest in church. Every parishoner can, while the list is displayed, make his remarks in writing to the Church-congregational executive committee, which shall render a decision within 8 days. This decision can be appealed within 15 days of the day it was issued to the Diocesan Executive committee through the Church-congregational executive committee. The diocesan Executive Committee's decision is final.

The list is made in duplicate, one of which remains in the parish office, while the other is submitted to the Diocesan Executive Committee.

ARTICLE 182

The Church-congregational Council consists of from 24 to 60 members, and one half as many alternates, according to the number of faithful. The number of members is determined by the Diocesan Executive Committee.

All rectors in charge of churches are members of the Church-congregational council ex-officio.

The number of members of Church-congregational councils, according to the number of orthodox souls in the church congregations shall be: for up to 2000 souls, 24 members and 12 alternates; up to 4000 souls—30 members and 15 alternates; from 4 to 6000 souls—40 members and 20 alternates; and over 6000, 60 members and 30 alternates.

This number can be, if necessity indicates, either lowered or raised by the diocesan Bishop in agreement with the Diocesan executive committee.

ARTICLE 183

Every member, male and female, of the parish can be elected to the Church-congregational council who:

1) meets all the conditions of an elector in the church-congregation;

2) who is at least 25 years of age;

3) who is a citizen of Jugoslavia;

4) who resides in the said church congregation for at least one year.

ARTICLE 184

The Church-congregational council is elected for a term of six years, and meets in the headquarters of the church congregation in regular session twice a year. In these sessions, in addition to other business, it prepares an estimate and examines the concluded accounts.

The Church-congregational council meets in special session:

a) when so decided by the Church-congregational executive committee;

b) When a majority of the members of the church-congregational council requests it in writing, indicating the subjects to be considered;

c) when so ordered by the Diocesan Executive Committee;

In cases under points b) and c), the meeting must be called within 30 days.

ARTICLE 185

To elect members of the Church-congregational council, the electors meet on the appointed day at the headquarters of the church congregation.

The day & place of the election is determined by the Diocesan executive committee upon a hearing of the Church-congregational executive committee. The vacancies of membership in the Church-congregational council are filled by alternates.

ARTICLE 186

The electors are summoned by the Church-congregational executive committee, and the oldest priest by rank, i.e., according to ordaination, the rector (head of the church), presides, who nominates the secretary and two literate electors, together with whom the legitimacy of voters is determined, counting of ballots, and verifies the minutes of the election.

The election is conducted by slate, to wit: by acclamation or by individual oral voting.

A slate of candidates must be signed by at least as many electors, as one half of the total number of church-congregational councilmen to be elected. No one person can sign more than one slate.

Prior to authorization of the slate, the candidates and alternates appearing on the slate must personally give to the Church-congregational committee their written consent that they accept the nomination.

Voting, both for members of the Church-congregational council and their alternates, is conducted at the same time.

ARTICLE 187

Upon completion of the election, the president announces the results of the election.

The president shall submit a notarized copy of the minutes of the election to the Diocesan Executive Committee with eight days from the day of election.

Grievances to the election are submitted through the president within eight days of the day of election to the Diocesan executive committee which renders the final decision.

ARTICLE 188

The elected members of the Church-congregational council is summoned to a meeting by the president of the election who presides at the same, for the purpose of constituting, and before whom all members except clergy take the oath (article 39).

After taking the oath, the Church-congregational council elects by secret vote its president, vice president and secretary.

The rector (eldest head of the church) is the honorary president of the Church-congregational council.

ARTICLE 189

Upon becoming constituted, the Church-congregational council immediately proceeds to the election of the Church-congregational executive committee by secret ballot.

The minutes of the council's being constituted, and of the election of the Church-congregation executive committee must be submitted in notarized copy within eight days after the election to the Diocesan executive committee for examination and approval.

ARTICLE 190

The church-congregational council can render valid decisions if there be present at a meeting more than one half of its members.

Decisions are rendered by majority vote of those present. In case of tie, the presiding voice decides.

If at the first meeting a quorum of members to render valid decisions is not present, the meeting is postponed for eight days, at which time valid decisions can be rendered by as many members as there be present. This must be expressly stated in the summons to the meeting.

ARTICLE 191

The Church-congregational Council performs these functions:

1) prepares the annual estimate of income and disbursements, and approves the final bill for various needs of the church congregation, and sends them to the Diocesan executive committee for final approval (art. 153, #5);

2) renders decisions concerning the mortgaging and alienating of Church-congregational property, and forwards them through the Diocesan executive committee for approval up to the sum of 2,000,000 dinars to the Patriarchal executive committee, and over that sum to the Patriarchal council;

3) renders decisions concerning the writing off of accounts due the Church-congregational which cannot be collected from the creditor, and concerning the dispensing of expendible items of that property and forwards them to the Diocesan executive committee which decisions for writing off accounts to 50,000 dinars and of dispensing expendibles up to 100,000 dinars it approves; while with sums over those amounts it forwards with is opinion for approval to the Patriarchal executive committee;

4) renders decisions concerning the initiating or cessation of litigations, and of terms of settlement, and forwards them to the Diocesan executive committe which gives final approval up to value of 200,000 dinars, and over that sum forwards them on with an opinion to the Patriarchal executive committee for approval;

5) renders decisions of leasing and submits them for approval to the Diocesan executive committee, which gives final approval up to sum of 200,000 dinars, and over that sum forwards them with an opinion to the Patriarchal executive committee for approval;

6) renders decisions concerning the assessing of members of its church congregation for the needs of its church congregation, the diocese, and for the general needs of the Church;

7) with the approval of the appropriate diocesan authorities, decides upon the proposals of the church-congregational executive committee concerning the maintenance, renewal and building of churches, parish houses, church-congregational, fund, memorial bequest (foundation) buildings, and in general concerning the establishing of institutions in its jurisdiction;

8) establishes within the limits of this Constitution and directives of higher church authorities positions of its employees, and determines their benefits;

9) submits suggestions, petitions and proposals to the appropriate diocesan authorities concerning its needs;

10) in accordance with directives and orders of higher church authorities, takes care of the support of the rector and parish.

ARTICLE 192

Should the church-congregational council not fulfill its duty, or not submit to the orders of established authorized authorities, or over-step the limits of its sphere, and in case that such disorder arise in its midst to hinder the proper functioning of the council, the Diocesan Executive Committee, upon a grievance or by official duty, directs that an investigation of the matter be made.

The Diocesan executive committee may exclude the guilty parties from the Church-congregational council, and if necessary, suspend further activity of the Church-congregational council, transferring such activities to the Church-congregational executive committee. This temporary status may continue until the Diocesan Executive committee becomes convinced that proper and regular functioning of the Church-congregational council can be renewed.

ARTICLE 193

In case of absolute necessity, the filling of vacancies in the Church-congregational council up to one third of the total number of members is conducted by rotation under the chairmanship of persons designated by the Diocesan Executive Committee. The Diocesan executive board is authorized to give approval for this.

b) CHURCH-CONGREGATIONAL EXECUTIVE COMMITTEE

ARTICLE 194

The church-congregational executive committee is comprised of from 6 to 12 members, according to the number of members in the Church-congregational council, and other conditions in the church congregation.

The president and vice-president of the Church-congregational council are members of the Church-congregational Executive Committee in the same capacity ex-officio, as also the rector, i.e., the eldest head of the church, who is a member of the Church-congregational council. The remaining members of the Church-congregational executive committee and a like number of alternates are elected by the Church-congregational council for a term of six years from among its own midst.

ARTICLE 195

The number of members for Church-congregational executive committees for the various church congregations is determined by the Diocesan executive committee.

ARTICLE 196

The Church-congregational executive committee elects the secretary, treasurer, and the necessary number of sextons, if need be also from persons not in their midst.

ARTICLE 197

Persons who are in the degrees of relationship as stated in ARTICLE 75 cannot be elected to serve at the same time in the Church-congregational Executive Committee.

ARTICLE 198

An elected member of the Church-congregational executive committee continues to remain a member of the Church-congregational council.

ARTICLE 199

The church-congregational executive committee meets at the invitation of the president in sessions at least once every two months, and more often according to necessity.

Upon the demand of a majority of the members, the president is obliged to summon a meeting of the Executive committee. In that demand, the subject must be explicitly stated as to why the meeting should be called.

ARTICLE 200

The church-congregational executive committee may render valid decisions if a majority of the members are present at the meeting. Decisions are rendered by simple majority of votes of members present. In case of tie, the president's vote decides.

ARTICLE 201

The duties of the Church-congregational Executive Committee are mainly these:

1) to preserve and defend the dignity and interests of the church and church-congregation;

2) to assist ecclesiastical authority in the religio-moral and cultural-educational rearing and training of the adherents of the Orthodox Church, especially the youth, in the preservation and nourishment of beneficial and nice customs, as also in the uprooting of bad and harmful habits;

3) fulfills the decisions of the Church-congregational council and directives of the authorized church authorities;

4) cooperates with the Rector in the comilation of church electoral lists;

5) hires and dismisses church-congregational official personnel, except the church cantor and the church-sexton (ARTICLE 176 point 16);

6) watches that those who enjoy the use of the church goods keep them in good order;

7) compiles an inventory of expendible and real estate properties, submitting one copy every year to the Diocesan executive committee;

8) governs the church property and sees to its advancement; exercises care that the properties of funds, memorial bequests (foundations) are used in accordance with their designated purposes;

9) secures the legal documents dealing with the right of possession of church real estate, and insures them against fire, and where necessary against other catastrophies;

10) in agreement with the rector, to care about the securing of necessary means for the conducting of divine worship, the maintenance, securement and decoration of

churches, parish houses, belfrys, the cemetery and landscape; takes care about obtaining the means and preparing estimates and plans, which are submitted to the Church-congregational council, and then to the diocesan authorities for final approval, for the building and erecting of new churches, parish houses and other church-congregational structures;

11) takes care of the regular payment of taxes and other obligatory assessments required by law;

12) examines every three months, and more often if necessary, the accounts of the treasurer and tutors, also of other accountable persons, and endeavors to see that they fulfill their duties accurately and conscienciously;

13) compiles and proposes to the Church-congregational council the annual estimates and receipts and disbursements, and also collects and compiles the final accounts, and submits them with inventories to the Church-congregational council for examination and further action;

14) makes suggestions, petitions and proposals to higher church authorities concerning all its needs;

15) submits at the end of the year a report of its work to the Church-congregational council, and

16) takes care that surplus funds do not lie dormant in the church treasury, but that they be used in the most advantageous and secure manner for the interests of the Church; the amount of the sum that can be kept in the treasury is decided by the board itself according to its needs.

ARTICLE 202

In cases when the Church-congregational council deliberates concerning accounts or accountableness because of some irregularity or carelessness of the Church-congregational executive committee, this committee is obliged to give the Council all necessary explanations, but it cannot participate or vote in the bringing of decisions dealing with these subjects. In such a case the honorary president of the Church-congregational Council presides.

If the Church-congregational council is deliberating on the accountableness because of some irregularity or neglect of the Church-congregational executive committee in whose work the rector participated, and did not at that time take exception by giving his opinion, the rector cannot preside at that meeting of the Council, but in such a case the oldest member in age of the council presides.

c) REGULATIONS COMMON TO BOTH THE CHURCH-CONGREGATIONAL COUNCIL AND EXECUTIVE COMMITTEE

ARTICLE 203

The Rector, i.e., the head of the church, is obliged to actively cooperate with the members of the Church-congregational council and committee in all activities (of an administrative and material nature) in his church congregation, and is co-responsible with them for all irregularities, if he did not in a given case expressly state his opinion against the irregular decisions and activities, and did not state a grievance to higher authorized church authorities.

The Rector (head of the church) is privileged to file a grievance with the higher authorities within 14 days against decisions of the Church-congregational council and Church-congregational committee which might be rendered contrary to church regulations or harmful to the religious and moral interests of the church, or against decisions in which his explained suggestions for satisfying the needs of the churches, cemeteries and other consecrated places were ignored.

ARTICLE 204

Service as members of the Church-congregational council and Church-congregational executive committee is honorary and is rendered without renumerations.

If a member of the Church-congregational executive committee should perform the duties of secretary or treasurer, he could be given in accordance with the amount of work a special honorarium for the performance of these duties, with the approval of the Diocesan Executive Committee.

ARTICLE 205

The Diocesan executive committee may, upon charges or by official duty, exclude from the Church-congregational council and executive committee any member who:

a) loses one of the conditions required by the regulations of this Constitution for membership in the Church-congregational council or executive committee;

b) neglects his duties and is absent from meetings three times in a row without legitimate excuse;

c) does not submit to directives of higher church authorities and hinders the execution of valid decisions.

ARTICLE 206

If the Church-congregational executive committee should neglect it's duties, or should it over-extend its authority, or not fulfill orders and directives of authorized higher church authorities, or finally, should there arise in it such divisions and disorders which hinder the successful and correct regular performance of work, and should the Church-congregational council not take measures against such work, the Diocesan executive board has the right to dissolve the Church-congregational council and the execution committee, and to appoint a special temporary trusteeship of from 5 to 12 members.

Similarly, it can dissolve the Church-congregational council and the executive committee and appoint a temporary trusteeship in the event that the number of members in these bodies becomes inadequate for its regular work.

The appointed temporary trusteeship shall conduct all activities of the Church-congregation until the election of a new Church-congregational council and executive committee.

The motion for dissolution of the Church-congregational council and committee and the appointing of a temporary trusteeship is submitted by the Rector, i.e., the head of the church, to the bishop's district deputy, who with his opinion submits the same to the Diocesan executive committee for decision. The decision of the Diocesan executive committee on this matter is final, against which there is no appeal.

The Diocesan executive committee may by official duty dissolve the Church-congregational council and church-congregational executive committee and appoint a trusteeship.

The Rector, i.e., the eldest head of the church, is always a member of the temorary trusteeship.

ARTICLE 207

The Diocesan Executive Committee is authorized to send its representative with necessary directives to any meeting of the Church-congregational council or Executive Committee meeting, both regular and special.

13. THE SUPERIOR AND BROTHERHOOD OF MONASTERIES

ARTICLE 208

Every priest-monk and monk (nuns) must belong to the brotherhood of one monastery.

All priest-monks and monks of the Serbian Orthodox Monasteries are under the direct control and authority of the monastery Superior; however, priest-monks and monks, who with the knowledge and consent of the jurisdictional Bishop perform church duties and live outside their monastery, are subordinated to the direct jurisdiction of the respective Bishop, but at all times remain in spiritual communion with their monastery. If they transfer to another diocese, they become attached to one of the monasteries located therein.

The Diocesan Bishop is the Supreme Superior and supervisor of all male and female monasteries and monastic brotherhoods in his diocese.

ARTICLE 209

In a monastery, where there are at least 3 members of the brotherhood, the superior governs with the help of the brotherhood.

All priest-monks and monks, both those who live in the monastery and those who because of their church duties live outside the monastery, are members of the monastery brotherhood.

ARTICLE 210

The superior of the monastery is the representative, direct governing and controlling authority of his monastery and brotherhood, the guardian of church and monastic rules, and executor of orders from higher church authorities.

The direct assistant and substitute of the Superior is the deputy.

ARTICLE 211

In the monastery which has more than four brothers, the brotherhood under the chairmanship of a representative of the Diocesan Bishop, nominates two candidates for each post of Superior and deputy, of which the diocesan Bishop appoints one Superior and one deputy.

In monasteries with less than four brothers, the superior and deputy are appointed by the Bishop.

In case of necessity, the Diocesan Bishop may appoint a temporary superior. He also dismisses him. A permanent superior can be dismissed from his post or transferred upon his explained petition, by his consent or judgment, except in the cases stated in ARTICLE 220.

ARTICLE 212

The Superior is obliged to live with the brotherhood and perform his duties according to the monastery Constitution. Besides his sphere of duties set forth in ARTICLE 213 (a special regulation), he performs these duties:

1) prepares for the various monastery needs and annual estimate of receipts and disbursements and compiles the concluding accounts and sends them for review with the Diocesan executive Committee, which approves the same in agreement with the Diocesan ecclesiastical court.

2) renders decisions concerning the alienating and mortgaging of monastery property and forwards them to the Diocesan executive committee, which in conjunction with the Ecclesiastical court forwards them with an opinion for approval to the Patriarchal executive committee if amount is up to 2,000,000 dinars; and over that amount to the Patriarchal council; The Patriarchal executive committee decides thereupon in agreement with the Holy Synod of Bishops, while the Patriarchal council by agreement with the Holy Assembly of Bishops;

3) decides concerning the writing off of debts which cannot be collected, and of disbursing of expendible items, forwarding them to the Diocesan executive committee—for debts up to 50,000 dinars; and the disbursement of expendibles to the amount of 100,000 dinars; while sums over that amount to the Patriarchal executive committee through the Diocesan executive board which forwards such decisions with its opinion; The Diocesan executive committee decisions are made by agreement with the Diocesan ecclesiastical court and the Patriarchal executive committee decisions in agreement with the Holy Synod of Bishops;

4) Renders decisions concerning the initiating or cessation of litigations, and of conditions of settlement, fowarding them for approval: to the Diocesan Executive Commit-

tee for sums up to 200,000 dinars, and over that amount to the Patriarchal executive committee through the diocesan executive committee which forwards them with its opinion; The Diocesan executive committee decides on such issues in agreement with the Diocesan ecclesiastical court, while the Patriarch executive committee decides upon such issues in agreement with the Holy Synod of Bishops.

5) renders decisions concerning the taking and giving under lease monastery properties, submitting them for approval: to the Diocesan Executive committee for values up to 200,000 dinars, and over that sum to the Patriarchal executive committee through the Diocesan executive committee, which forwards them with an opinion. The Diocesan executive committee decides such issues in agreement with the Diocesan ecclesiastical court, and the Patriarchal executive committee decides such issues in agreement with the Holy Synod of Bishops;

6) is concerned with the advancement of monastery properties, and that necessary and possible crafts and husbandry be developed.

ARTICLE 213

A special directive for the internal and external monastery life is prescribed by the Holy Assembly of Bishops.

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III. CHURCH OFFENSES AND PENALTIES

ARTICLE 214

Offenses, according to canons and church regulations, which are investigated and judged by the competent church authorities are as follows:

a) Clergyman of secular and monastic order:

1. Offenses against faith and church teachings as well as church order;

2. Conduct which is unbecoming to priestly rank and position;

3. Failing to fulfill or careless performance of official priestly duties and lawful orders of the higher church authorities;

4. Insults and slanders which one clergyman does to another one;

5. Extortion of the exhorbitant fee for officiation;

6. Discussion and criticism in preaching and pronouncements of laws and orders of competent authorities and their actions.

ARTICLE 215

Offenses are investigated and judged by official duty or upon the basis of submitted charges.

ARTICLE 216

The Church penalties are these:

a) for ordained persons of both branches:

1) warning;
2) admonishment (rebuke);
3) penance as decreed;
4) transfer to another place of service;
5) temporary suspension of sacerdotal functions, maximum of one year;
6) loss of parish service, i.e., other callings in the Church;
7) lifetime suspension of sacerdotal functions;
8) deprival of Holy Orders—unfrocking;
9) dismissal from Holy Orders and exclusion (excommunication) from the church community; and
10) dismissal from monasticism;

b) for the laity:

1) temporary deprival of various rights and honors in the church;
2) exclusion (excommunication) from the church community for a fixed period of time; and
3) final exclusive (excommunication) from the church community.

ARTICLE 217

For ordained persons of both branches, the penalties of warning, rebuke, and penance up to fifteen days, and suspension from sacerdotal functions up to thirty days are pronounced by the diocesan Bishop, while penalties of transfer to another place, suspension of sacerdotal function for more than thirty days and other penalties are pronounced only by the appropriate Ecclesiastical Court. For the laity, the penalty of temporary deprival of various rights and honors in the church are pronounced by the jurisdictional Bishop, while the remaining penalties the jurisdictional Diocesan ecclesiastical court.

Penalties decreed by the diocesan Bishop are effective immediately (art 108, pt. 19), and penalties decreed by the Diocesan Eclessiastical court are subject to review and judgment of the Supreme Ecclesiastical Court according to ARTICLE 79.

ARTICLE 218

No one can be punished with any church penalty without prior hearing.

ARTICLE 219

Should a complaint be submitted against a clergyman for an offense which caused scandal among the people and is shameful for the clerical ranks, diocesan bishop may such a clergyman, immediately after the commencement of investigation, suspend from officiation until the verdict of the church court is rendered.

Bringing the decision of suspension of officiation, diocesan bishop may order that such clergyman be temporarily remunerated a one half of his salary.

Matters of this kind must be considered as urgent and the church court is obligated to make a decision within a period of one year.

ARTICLE 220

In a case of charge of misappropriation of funds, the accused may be removed from the administration by the diocesan bishop until his offenses are finally investigated and judged.

ARTICLE 221

Penalties of suspension from sacerdotal functions, regardless of duration, draw with them a cut in benefits to one half for the period of time the penalty is in effect. The substitute becomes the beneficiary.

ARTICLE 222

Penalties forseen under points 4 to 6 inclusive in ARTICLE 216, imply the halting of advancement in rank and benefits for a maximum of three years, according to the decision of the church authority which pronounced judgement.

This halting of advancement commences also when a priest is punished according to ARTICLE 216, points 1 through 3 in two consecutive years.

ARTICLE 223

Clergy who are in the service of the church, should they be suspended or ordered to temporary suspension of officiation, cease to perform functions of his office during pendency of suspension, and for all that time receive half of his remuneration.

ARTICLE 224

Regulations concerning church offenses and penalties are applicable also to retired ordained persons, insofar as they can be applied.

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IV. CHURCH EDUCATION

ARTICLE 225

The Serbian Orthodox Church exercises care over the nourishment and development of ecclesiastical-educational activities and church art, and towards that end establishes and erects the necessary schools and foundations.

ARTICLE 226

For the training of the Serbian Orthodox clergy of both branches in the Serbian Orthodox Church, there exist higher and lower theological and monastic schools. These schools are established by the Holy Assembly of Bishops in agreement with the Patriarchal council, and closes them by its own decision.

The Serbian Orthodox Church provides for the teaching of religion in the elementary, middle and technical schools.

ARTICLE 227

Every Theological and monastic school has, where possible, its own dormitories.

ARTICLE 228

Only persons of the Orthodox faith who have the prescribed qualifications can be instructors (teachers) in the Orthodox Theological Facualy, in theological and monastic schools.

Professors of theological courses in seminaries and monastic schools must be either in Holy Orders or of Monastic orders.

ARTICLE 229

Lectures at the Orthodox Theological Faculty of the University must be in agreement with the teachings of the Orthodox Christian Church. Concerned with this is the Holy Synod of Bishops, as well as with the religious suitability of the candidate for instructor of this school at the time of his appointment.

ARTICLE 230

The cirriculum plan and program of lectures in theological and monastic schools is prescribed by the Holy Assembly of Bishops.

ARTICLE 231

Rectors of seminaries and directors of monastic schools are appointed by the Holy Assembly of Bishops, and the teaching personnel is elected by the Holy Synod of Bishops upon the recommendation of the diocesan Bishop: the first and the latter are relieved from duties or returned by the Holy Synod of Bishops upon the recommendation of the diocesan Bishop.

ARTICLE 232

Theological and monastic schools are under the supreme control and direction of the Holy Synod of Bishops, and under the direct control of the jurisdictional diocesan Bishop;

The jurisdictional Bishop, as the direct supervisory authority, has the right to penalize by warning and rebuke all teaching personnel and other official personnel because of unconscientious work or unbecoming behavior. In case of more grevious offense, the diocesan Bishop may temporarily remove the official from his duties and immediately inform the Holy Synod of Bishops of this for further action.

ARTICLE 233

Regulations dealing with the theological and monastic schools are prescribed by the Holy Assembly of Bishops.

ARTICLE 234

Concerning the founding and ordering of other church-educational schools and foundations, the Holy Assembly of Bishops in agreement with the Patriarchal council is the competent authority for general institutions for the whole church; for diocesan, church-congregational and monastic

institutions, the diocesan Bishop in agreement with the diocesan, i.e., the church-congregational council, i.e., the monastery superior and brotherhood,—all with the approval of the Holy Synod of Bishops and the Patriarchal executive committee, if the maintenance of these schools and foundations falls upon the burden of estimates of income and disbursements for general church needs.

V. CHURCH PROPERTIES

ARTICLE 235

The Serbian Orthodox Church independently governs and freely directs church properties, church funds and memorial bequests (foundations), as also its own incomes within the limitations of canonical regulations and this Constitution.

ARTICLE 236

All annual disbursements and incomes of the Serbian Orthodox are forseen in the annual estimates of income and disbursements, which are compiled separately according to general or particular needs which must be satisfied.

For the general needs of the Serbian Orthodox Church, the Patriarchal Executive Committee determines the estimate of general income and disbursement, and the concluding accounts it submits to the Patriarchal council for approval.

For the particular needs of the dioceses, church congregations and monasteries, the organs of these bodies competent for this by this Constitution, compiles the estimate of disburesements and incomes of the respective diocese, church congregation or monastery. Estimates of the dioceses are approved by the Patriarchal Executive Board, and estimates for church congregations and monasteries are approved by the Diocesan Executive Committee.

The concluding accounts of the diocese are submitted by the Diocesan Executive Board for approval to the Patriarchal executive committee in accordance with art. 101, point 4, and art. 153, point 3, and the concluding accounts of church congregations and monasteries are approved by the Diocesan Executive Committee.

ARTICLE 237

The disbursements and income of Church funds and of Church foundations and institutions are provided for in the respective estimates, and consequently under whose jurisdiction comes the handling and governing of the same, as well as the care for their needs and uses.

The incomes and disbursements of church memorial bequests (foundations) are also forseen in the respective estimates, if the disbursements are designated for the needs of the Church.

ARTICLE 238

The organs which are authorized to compile or submit the annual estimates of disbursements and income are also obliged to prepare the annual closing accounts, which they submit for review and dispensation to the authorities under whose jurisdiction the matter belongs.

ARTICLE 239

The Directors for the Church budgets are as follows:

For the budget of general disbursements and incomes of the Serbian Orthodox church, the President of the Patriarchal Executive Committee, or his deputy; For the diocesan budget, the President of the Diocesan Executive committee, or his deputy; For the budget of the Church Congregations, the President of the Church-Congregational Executive Committee; and for the budget of the monasteries, the Superior of the monastery.

The Directors for the budget of the general needs of the Serbian Orthodox Church and the Directors of the diocesan budgets, can transfer their right of directorship to subordinate organs for sums up to 20.000 dinars.

ARTICLE 240

Submitters of accounts are all those organs and persons to whom by this Constitution or regulations and other rules are entrusted the handling of church money, articles, and material.

ARTICLE 241

The Directors and submitters of accounts are materially responsible for their work which might be contrary to church-legal rules.

ARTICLE 242

The following are the sources for covering the disbursements of the Serbian Orthodox Church:

1) Incomes from Church and Monastery benefices, temples, funds, memorial bequests, and from various church foundations and institutions;

2) From church taxes;

3) Income from securities;

4) Assessments upon church congregations and monasteries;

5) Voluntary donations, gifts and bequests.

ARTICLE 243

The General needs of the Serbian Orthodox Church which are forseen in the estimate of general disbursements and incomes, are met with:

1) Income from general Church benefices and from Church institutions of a general character;

2) With income from Church taxes mentioned in (Article 242, part 2), in-so-far as they are prescribed for general needs;

3) With incomes from sources forseen in (Article 242, part 3).

4) With incomes from Church funds and memorial bequests, and also from special incomes from voluntary donations, gifts and bequests, in-so-far-as they are designated for general needs;

5) Incomes from special assessments upon church congregations, monasteries and dioceses;

6) Incomes from church foundations and institutions.

ARTICLE 244

The particular needs of the dioceses shall be met:

1) From incomes from diocesan benefices;

2) From incomes from church funds, memorial bequests and incomes from diocesan institutions and foundations, and also from incomes from voluntary donations, and bequests, in-so-far-as they are designated for diocesan needs;

3) From incomes from special assessments upon church congregations and monasteries.

ARTICLE 245

The particular needs of the church congregations shall be met:

1) From incomes from the temple and from church-congregational benefices and institutions;

2) From incomes from church-congregational funds, memorial bequests, and other institutions, from voluntary donations, gifts and bequests, in-so-far-as they are designated for the needs of the church-congregation, and,

3) From incomes from voluntary assessment upon its members.

ARTICLE 246

The particular needs of monasteries shall be met;

1) From incomes from their temples and benefices;

2) From incomes from their workshops and handicrafts;

3) From incomes from their funds, memorial bequests and institutions and also from incomes from voluntary donations, gifts and bequests;

4) From incomes derived by service to parishes (Article 170)

ARTICLE 247

Church benefices are those real estate and personal properties which are the possessions of the Church as the general property of the Serbian Orthodox Church, or which are the possessions of the particular dioceses, monasteries, church congregations, temples, memorial foundations, independent institutions, or such funds.

The General benefices of the Church are considered Patriarchal benefices; particular benefices are considered, Diocesan, Episcopal, Church-Congregational, specific Churches, and Monastery benefices, which serve the particular needs of the Dioceses, i.e., the Bishops, Rectors, Deacons, church officials and monastics.

ARTICLE 248

Church benefices and income derived therefrom are used for the general or particular needs of the Church, and cannot be used for any other purpose.

ARTICLE 249

Real estate church benefices must have legal documents of ownership.

ARTICLE 250

Accurate and prescribed inventories must be regularly kept for all church benefices, which are compiled by those authorities and organs which directly govern these benefices.

ARTICLE 251

Church benefices are insured against damage from fire, theft, and storms of the elements, in accordance with the regulations of the Patriarchal Executive Committee.

ARTICLE 252

Church real estate property, which is given with a specific purpose, (Memorial Bequests, Bequests, etc.) cannot be mortgaged nor alienated, if the doner has specifically forbidden this.

ARTICLE 253

Monasteries may associate economically for a more rational development of the contemporary economy of its property, and they can establish their workshops with the approval of authorized diocesan authorities.

ARTICLE 254

The Patriarchal Council prescribes the manner of governing, handling and use of church benefices, as also the manner of supervision and control over those benefices.

ARTICLE 255

The Patriarchal Executive Committee renders the final decision concerning all those questions dealing with church properties which are not by this Constitution assigned to the jurisdiction of any church authority.

ARTICLE 256

Serbian Church Funds are those which were established by or the Serbian Orthodox Church, or her component parts, foundations and institutions, or which may be established with the designated purpose for the general needs of the Serbian Orthodox Church or for the particular needs of her component parts, foundations and institutions.

ARTICLE 257

Serbian Church memorial bequests (foundations) are those founded by particular benefiactors, or which may be founded with a specified purpose for religious, church-educational, benevolent or other needs of the Serbian Orthodox Church, or for the particular needs of her component

parts, foundations and institutions. Likewise, Church memorial bequests are those which are not designated for the church needs and aims, but are entrusted to the governing and handling of church authorities, foundations and institutions.

ARTICLE 258

For every church fund, and every church memorial bequest (foundation) there must exist By-Laws, in which is designated the property, its intention, the manner of its governing, use and control, and also the manner in which it is represented before the authorities.

The founding of Funds and acceptance of memorial bequests (foundations), and also their By-Laws, are approved by the Patriachal Executive Committee.

In-so-far as there are no By-Laws for particular funds and memorial bequests (foundations), the Patriachal Executive Committee shall prescribe them.

ARTICLE 259

For the particular needs of the Church for furthering the Orthodox Faith there exists the Synodal Fund, which is governed by the Holy Synod of Bishops.

In the estimate of general disbursements and incomes of the Serbian Orthodox Church, each year the necessary credit of proceeds assigned to the Synodal Fund must be forseen, which cannot be less than 1% of the totally forseen incomes for the respective budget year.

ARTICLE 260

All Church Funds and memorial bequests (foundations) serve only those purposes for which they are intended.

The intentions of existing Funds and Memorial Bequests (foundations) can be extended to cover the same needs in the entire Serbian Orthodox Church and of her component parts. Decisions concerning this are made by the Patri-

archal Council upon recommendation of the Patriarchal Executive Committee, and in agreement with the Holy Assembly of Bishops.

ARTICLE 261

The intention of Funds and memorial bequests (foundations) can be, by exception, changed only if the intention becomes impossible to realize, or if the need ceased to exist for which it was intended.

Likewise, if its holdings decrease because of various monetary changes so that it becomes inoperable, the fund or memorial bequest shall be consolidated with others having similar intentions, but with the terms that the names of the founders shall be completely preserved. Of such matters the Patriarchal Executive Committee shall submit an explanatory recommendation, which shall be decided upon by the Patriarchal Council, by agreement with the Holy Assembly of Bishops.

For Funds and Memorial Bequests attached to church congregations and dioceses, the recommendation is submitted to the Patriarchal Executive Committee by the Diocesan Executive Committee.

ARTICLE 262

For official actions of ecclesiastical authorities, bodies and organs, both in the hierachal and self-governing spheres, only those taxes are paid to the benefit of the Serbian Orthodox Church which are prescribed in a separate By-Laws by the Patriarchal Council in agreement with the Holy Assembly of Bishops.

ARTICLE 263

Decisions concerning the granting of dispensations to church congregations, monasteries and dioceses, for the general needs of the Church are rendered by the Patriarchal Council in agreement with the Holy Assembly of

Bishops (Article 69—Part 24, and Article 243—Part 5). For particular diocesan needs such decisions are rendered by the Diocesan Council (Article 141—part 3, and Article 244—part 3), which is approved by the Patriarchal Executive Committee in agreement with the Holy Synod of Bishops.

For particular needs of church congregations, decisions made concerning the assessing of members of the church congregation by the Church-Congregational Council (Article 191—part 6, and Article 245—part 3) are submitted for approval to the Diocesan Executive Committee.

ARTICLE 264

At the seat of the Patriarchal Executive Committee is the governing chancery, which performs the governing affairs of the Church self-governing according to the directives and under the supervision of the Patriarchal Executive Committee and under the supreme supervision of the Patriarch.

The Governing Chancery has these departments:

General—Economic—and Financial

By regulation which is brought about by the Patriarchal Council, these offices shall be rearranged according to financial conditions.

ARTICLE 265

The Means of the Church may be used to establish institutions, associations, and workshops for the making of candles, church utencils, and other necessary articles for the church, as also a printing shop, book-bindery, etc.

The use of candles in the church depends upon the approval of church authorities.

Special church stores may be established to provide the faithful with these various articles.

ARTICLE 266

Members of the ecclesiastical-heriarchical and church-self governing bodies and organs, excepting those for whom this Constitution otherwise provides, receive a per diem during the time of their work, i.e., reimbursement for traveling expenses, from the church-self governing means, in accordance with the By-Laws which are prescribed by the Patriarchal Council in agreement with the Holy Assembly of Bishops. The same applies in cases when church dignitaries, and other officials travel on official business away from the place of their residence.

VI. PROVISIONAL INSTRUCTIONS AND CONCLUDING ORDINANCES

ARTICLE 267

Until such time that the material means for the maintenance of the bodies and organs of the Serbian Orthodox Church be assured in accordance with (Article 90) of this Constitution, the Patriarch, the central appertinaing authorities of the Patriarchate and their personnel (offices and personnel of the Holy Synod of Bishops, the Patriarchal Executive Committees and the Supreme Ecclesiastical Court), as also the seminaries and monastic schools, fall upon the burden of the central treasury of the Patriarchate; The Bishops, Diocesan Ecclesiastical Court, Diocesan Executive Committee and their clerks fall upon the burden of the Diocesan treasury; rectors, deacons, and church-congregational clerks, fall upon the burden of the church-congregational treasury, i.e., of the parish, and the brotherhood of the monastery and its servants upon the burden of the monastery treasury.

ARTICLE 267

Contributions for retirement insurance of Bishops, priests, church-hierarchical and church self-governing clerks are paid in accordance with legal regulations by those bodies which support them. A special regulation concerning this shall be issued by the Holy Synod of Bishops in agreement with the Patriarchal Executive Committee.

The Benefits of service personnel of the church appertaining jurisdictions must be uniform, the amount be regulated by the Holy Synod of Bishops in agreement with the Patriarchal Executive Committee.

ARTICLE 268

When this Constitution becomes effective, all laws, directives, and other regulations cease to be valid which are contrary to this Constitution.

ARTICLE 269

The changes and amendments in this Constitution of the Serbian Orthodox Church of November 16th, 1931, were made by the Holy Assembly of Bishops of the Serbian Orthodox Church, and become effective on the day of their public announcement in the "Glasnik", the official journal of the Serbian Patriarchate, with the condition that they be presented at the appropriate time to the Patriarchal Council through the Patriarchal Executive Committee.

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From the meeting of the Holy Assembly of Bishops held in Belgrade, on the 6/19 day of May, 1947—ACNo.—46/ Min of 1947.

President
Holy Assembly of Bishops
ABM and SERBIAN PATRIARCH
GAVRILO, s.r.

DECISIONS OF THE HOLY ASSEMBLY OF BISHOPS RELATIVE TO CERTAIN PRESCRIPTIONS OF THIS CONSTITUTION

1. Increasing Of The Number Of Members Of The Diocesan Council Of The Archbishopric Of Belgrade-Karlovac.

—The Holy Assembly of Bishops, under ACno. 51/min. 33 of 1948, adopted the decision of the Holy Synod of Bishops no. 2540/min. 683 of 1947, by which the number of members of the Diocesan Council of the Archbishopric of Belgrade-Karlovac, be increased in exception to regulation of (Article 137) of the Constitution, so that in the same there be admitted from the Episcopal District of Belgrade, eight ordained, and eight lay persons, and from the Episcopal District of Vracar-Grocanac, three ordained, and three lay persons.

2. The Czech-Moravian Diocese in Czechoslovakia, be ceded to the jurisdiction of the Russian Orthodox Church.

—The Holy Assembly of Bishops under ACno. 24/min. 28 of 1948, rendered the decision by which the Czech-Moravian Diocese, be ceded to the jurisdiction of the Russian Orthodox Church.

3. The Appointment and Transfer of Permanent Parish Priest.

—The Holy Assembly of Bishops under ACno. 44/min. 57 of 1952, rendered the following decision:

"No one can be installed as permanent restor with a concourse in accordance with (Article 166) of the Church Constitution".

"A permanent parish priest, if he be transferred by his own request to another parish without concourse, loses permanence status",

4. The Converting of Convent Monasteries into Male Monasteries and the Reverse.

—Relative to (Article 30 and 32) of the Constitution, the Holy Assembly of Bishops under ACno. 7/min. 40 of 1954, rendered the following decision:

"The converting of convent monasteries into male monasteries and male monasteries into convents is conducted by the Diocesan Bishops, who informs the Holy Synod of Bishops informations sake."

"The permanent superior of either effected upon the converting of monastery lose their permanence".

5. The Abolishment of the Diocese of Budimlje-Polim.

—The Holy Assembly of Bishops under ACno. 44/min. 70 of 1956, rendered this decision:

"On the basis of (Article 16) of the Constitution of the Serbian Orthodox Church, the Diocese of Budimlje-Polim, is Abolished."

"Those parts from which this Diocese was comprised are to be returned and annexed to those Dioceses from which they were taken at the time of the formation of this Dioceses, to wit: To the Diocese of Dabro-Bosnia, are returned the former counties of: Pljevalj, Novovaros, Priboj, and Milesev; To the Diocese of Crna Gora-Primorje, the former counties of; Andrijevo to the mountain of Tresnjevik, with the exposition of Plav and Gusinje, Beranska, with the exposition of Rozaj and Bjelopolje; To the Diocese of Raska Prizren: the county of Sjenicks."

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DECISIONS OF THE HOLY ASSEMBLY OF BISHOPS RELATIVE TO CERTAIN PRESCRIPTIONS OF THIS CONSTITUTION

PLAINTIFF'S EXHIBIT 68C

THE HOLY EPISCOPAL SYNOD
OF THE SERBIAN ORTHODOX CHURCH
Number 1735
August 12, 1963
Belgrade

HIS GRACE STEFAN
EASTERN AMERICAN & CANADIAN BISHOP
Clairton, Pennsylvania

Your Grace:

The Holy Assembly of Bishops of the Serbian Orthodox Church at its meeting of June 8 (May 26) 1962 under AS number 23 minutes 12 brought forth the following decision.

"The Holy Assembly of Bishops temporarily takes upon itself the execution of matters of the Patriarcal Council"

I have the honor to inform Your Grace of the foregoing for your information as well as to inform their Graces Bishop of Middle-Western America Firmilian and Bishop of Western America Gregory of this decision.

Respectfully, faithful to your Grace,

Chief Secretary
of the Holy Episcopal Synod

MLADEN MLADENOVICH, Proto-Priest

PLAINTIFF'S EXHIBIT 69
PENAL CODE
of the
SERBIAN ORTHODOX CHURCH
BELGRADE
1961

PENAL CODE FOR THE ECCLESIASTICAL COURT OF THE SERBIAN ORTHODOX CHURCH
(KP)

I
INTRODUCTORY AND GENERAL REGULATIONS

ARTICLE 1.

Ecclesiastical offenses and punishments are those which are prescribed by the Holy Canons and which, according to the Constitution of the Serbian Orthodox Church, are enumerated by these statutes.

ARTICLE 2.

Violations of ecclesiastical duties committed by clergymen or both orders are punishable as CLERICAL TRANSGRESSIONS, while violations of church duties committed by persons in the minor orders, monks, and the remaining laity are punishable as TRANSGRESSIONS OF THE FAITHFUL according to these statutes.

ARTICLE 3.

Members of the Serbian Orthodox Church are accountable for ecclesiastical transgressions according to these statutes, regardless of where and when these transgressions were committed.

ARTICLE 4.

Punishment for these transgressions according to the general penal code or according to penal regulations of other state laws do not exclude the applicability of ec-

clesiastical punishments by these statutes insofar as the committed act also contains ecclesiastic transgressions, and insofar as these are persons for whom these statutes are obligatory. (Article 3.)

ARTICLE 5.

Relative to ecclesiastical transgressions according to these statutes.

1) Clergmen are considered to be only those persons ordained in Holy Priesthood of the white and monastic orders, regardless of whether they are in active Church service or in retirement.

2) Members of the minor orders, (church servers) monks, and other persons who have reecived the Holy Sacrament of Baptism and who are members of the Serbian Orthodox Church (Article 25, Constitution of the Serbian Orthodox Church), are considered to be 'the faithful'.

3) By (the term) faith is understood the Orthodox Christian Faith; by Church is understood the Ecumenical Orthodox Church, respectively the Serbian Orthodox Church;

4) By (the term) Court are understood those ecclesiastical judicial authorities and organs provided for in the Church Constitution.

ARTICLE 6.

Ignorance of these statutes or a wrong understanding of them excuses no one.

Ignorance of the Faith or teachings of the Church excuses neither clerical persons nor monks, and ignorance of Christian morals excuses no one.

ARTICLE 7.

He who consciously leads or encourages another to commit ecclesiastic transgressions, or who consciously aids another in committing an ecclesiastic transgression shall be punished as if he himself had committed the offense.

II

REGULATIONS CONCERNING ECCLESIASTICAL TRANSGRESSIONS

A) *Clerical Transgressions*

1) *Transgressions against the Faith, Teachings of the Church and Church Order.*

ARTICLE 8.

A Clergyman who in any way professes atheism or who renounces the Orthodox Christian Faith shall be punished for apostasy by being defrocked and excommunicated from the Church community.

ARTICLE 9.

A clergyman who denies or holds up to doubt a dogmatic truth of the Church, or who publicly confesses an error of a dogmatic nature which has been condemned by the Church shall be punished for heresy by being defrocked and excommunicated from the Church community.

ARTICLE 10.

A clergyman who consciously takes a false oath, or who falsely testifies in the name of God, or breaks an oath given in the name of God or a vow unto God, monastic or otherwise, shall be punished by being defrocked.

ARTICLE 11.

A clergyman who betrays a secret entrusted to him in confession shall be punished by being defrocked.

ARTICLE 12.

A clergyman who blasphemes God, the Holy Mother of God or His Saints, the Church and Faith, or if he curses them, or if he defiles a holy thing or a holy place, or who violates a divine worship service or a priestly rite which he himself performs or which is performed by another, shall be punished by being defrocked.

ARTICLE 13.

A clergyman who appropriates for himself a holy thing or article bequested to or entrusted to the Church shall be punished for sacrilege by being defrocked.

ARTICLE 14.

A clergyman who officiates in a nunprescribed manner, or in a place which is unbecoming, or in a non-ecclesiastical language without the blessing of the diocesan bishop, or under forbidden circumstances or in a manner completely against Church regulations, shall be punished by disciplinary measures, and if he stubbornly persists, he shall be defrocked.

ARTICLE 15.

A clergyman who separates himself from the Church, or who undertakes anything against the heirarchical unity of the Church or its canonical authority or who disavows her canonical regulations shall be punished for schism by being defrocked and excommunicated from the Church community.

ARTICLE 16.

A clergyman who receives or gives money or any other thing of value for ordination or promotion, shall be punished for simony by being defrocked and excommunicated from the church community, or for nepotism he shall be punished by being defrocked.

A clergyman who avails himself of influence outside the Church in order to gain an hierarchical position, title or calling in the Church, or who accepts such position, title or calling, or who resorts to the intervention of persons outside the Church in order to be released of his church duties and responsibilities, or to escape some obligation towards the Church and in the Church, shall be punished by the free discretion of the court, and in more serious case by being defrocked, respectively excommunicated from the Church community.

ARTICLE 17.

A clergyman who renounces obedience to his competent bishop, or who does not mention him in divine services, or who refuses to accept or to submit to the decisions of competent authorities in the Church or judgments of church judicial authorities, or who celebrates divine services or officiates priestly rites while under sacerdotal suspension, or who instigates the fairthful against Church Authorities or against some of Her regulations and decisions, or who refuses to quieten the faithful and lead them to obedience of Church authority, or who openly or secretly works, speaks and creates confusion against existing Church order and heirarchical authority, shall be punished for disobedience by being defrocked. In a more serious instance if he be already defrocked, he shall be punished by being excommunicated from the Church community.

ARTICLE 18.

A clergyman who officiates or performs other heirarchical acts of authority in some other jurisdiction, or who gives and accepts heirarchical ranks and which were already properly given or taken away, or who willfully deserts his post, respectfully his place of ministration, he shall be punished by disciplinary measures, respectfully by the free discretion of the court.

A clergyman who willfully deserts his church position and does not comply to the summons of his bishop to return to his church post shall be punished by being defrocked. In a more serious instance or blasphemy, he shall be punished by excommunication from the church community.

ARTICLE 19.

A clergyman who does not give due respect to other clergy, especially to clergy of higher hierarchical rank. shall be punished by disciplinary measures.

ARTICLE 20.

A clergyman of the monastic order who establishes a monastery without permission of the competent bishop, or who takes a monastery, monks or nuns from under the jurisdiction of the competent bishop, or who under any other pretenses willfully establishes co-habitant monastery for monks and nuns, or who as Monastery Superiors receive into the monastic order or who perform tonsure without permission of the competent bishop, or who accept as monks persons who are unfit or who do not exercise proper supervision over those whom they do accept, shall be punished by being defrocked.

2) *Behavior unbecoming to the priestly rank or position.*

ARTICLE 21.

A clergyman who commits or attempts to commit murder shall be punished by being defrocked.

Should he kill a man in self-defence or by accident, or if he tries to commit suicide, or should he cripple himself deliberately, sh shall be punished by sacerdotal suspension for life.

ARTICLE 22.

A clergyman who commits larceny, embezzlement or defraud, shall be punished by being defrocked.

ARTICLE 23.

A clergyman or monastic cleric who commits adultery or enters romantic attachments with persons entrusted to his pastoral care, or who after ordination enters into marriage, shall be punished by being defrocked.

A clergyman who performs the sacrament of marriage upon a clergyman, shall be punished by being defrocked.

ARTICLE 24.

A clergyman who participates in the commission of an unnatural act of unchasteness, (homosexuality), or who is given over to drunkeness and unchastity, or who performs priestly rites in a drunken state, or who gambles for profit, (games of chance), shall be punished by being defrocked.

ARTICLE 25.

A clergyman who commits some other immoral act and demonstrates unbecoming behavior as: spending time in taverns, bars and similar places, or who frequents bars and unbecoming places, or who endulges in making fun of the feeble in body, fights, intrigues, slander, lies, bribery, unbecoming expressions, cursing, deceit, and such similar acts, shall be punished by disciplinary measures, inasmuch as the transgression in a particular instance is not more severly punishable according to these statutes. In more serious case or if repeated, he shall be punished by the free discretion of the court.

ARTICLE 26

A clergyman who by reason of approval, agreement, or inclination, associates with heretics, schismatics, criminals, adulterers, drunkards, gamblers, known intriguerers or troublemakers and in general with persons of ill repute, shall be punished by disciplinary measures, and if repeated by the free discretion of the court.

Insofar as clergymen would instigate or support such persons in the commission of immoral or criminal acts, or who harbors such persons, or acts as receiver, he shall be punished by being defrocked.

ARTICLE 27.

A clergyman who engages in sorcery or divination of any kind, or spiritism and other superstitions, or who irresponsibly makes debts, or engages in arrogant litigations, or should be without permission of his competent bishop be-

come employed outside the Church, or goes hunting with fire arms, or if he engaged in some unbecoming business, shall be punished with disciplinary measures or by being transfered, inasmuch as such an act would not be more severely punishable according to these statutes.

ARTICLE 28.

A clergyman who without the prescribed clerical garb comes to the holy temple, or officiates, or performs rites, or appears at gatherings of the clergy or faithful, or has fellowship with his flock, or comes before his bishop, or is meeting him, or who neglects his external appearance and cleanliness of his body and clothing, or who by completely shaving beard and mustache, avoid that outward characteristic of an Orthodox clergyman, shall be punished by disciplinary measures, and if repeated, or if by so doing he provokes scandal, shall be punished by the free discretion of the court.

ARTICLE 29.

A Clergyman who outside of service, by deed or word, infringes upon his duty-bound respect toward holy rites, holy places. holy vestments and holy times, shall be punished by disciplinary measures, inasmuch as this is not more severely punishable according to these statutes.

3) *The nonperformances, respectively the careless performance of official clerical duties and lawful orders of the competent church authorities.*

ARTICLE 30.

A clergyman who:

1) Arbitrarily neglects to perform a prescribed officiation,

2) Or due to negligence perform an officiation contrary to the church regulations,

3) or administrates a holy sacrament to a person who does not meet the conditions to receive it,

4) or unjustifiably refuses to someone a rite or holy sacrament, permitted according to church and civil regulations, or who violate church marital regulations, especially if he performs marriage between persons who were divorced by civil court only, but not by the church,

6) at a holy place, or during an officiation also performs a secular function which does not have any connection with the faith or church,

7) or who co-celebrates during the holy liturgy but does not partake of holy communion,

8) or who celebrates the holy liturgy and does not consume the holy communion,

9) or who easts, drinks or smokes prior to serving holy liturgy,

10) or who does not teach the faithful,

Shall be punished by disciplinary measures, and if repeated and in a more severe case by the free discretion of the court.

ARTICLE 31.

A clergyman who loses official documents or enclosures shall be punished by disciplinary meaures, and in a more serious case by transfer to another place of service.

ARTICLE 32.

A clergyman who destroys or falsifies official documents or enclosures, or books of record, or financial books and documents, shall be punished by the free discretion of the court.

If he does that because of personal gain or out of personal passion, he shall be punished by being defrocked.

ARTICLE 33.

A clergyman who in the performance of his service tramples upon ecclesiastical regulations or makes omissions and thereby causes damage to the Church, or does damage to respectively provides some benefit to himself or for another, shall be punished by disciplinary measures or by the free discretion of the court.

ARTICLE 34.

A clergyman who helps himself with church money or other church property for personal benefit or waste it without any account, or does not handle it according to the prescribed order, or who does not submit bills and documents on time, or does not keep orderly books and does not preserve documents of that management, or if he allows and tolerates the same to be done other persons to whom church property had been entrusted for management and direction, shall be punished by disciplinary meaures, respectively by the free discretion of the court.

ARTICLE 35.

A clergyman who keeps church record books in a disorderly and careless manner shall be punished by disciplinary measures, and if repeated, by transfer.

ARTICLE 36.

A clergyman who without permission of the competent bishop reveals what he has learned in his official work, and which if revealed, might prevent the success of the churches service and cause damage to the churches interests, shall be punished by disciplinary measures.

ARTICLE 37.

A clergyman who is neglectful and disorderly in coming to his official duty, or who performs his service carelessly, or prolongs official functions or the execution of the decisions of the church authorities, shall be punished by disciplinary measures. In repeated instances, he shall be punished by transfer.

ARTICLE 38.

A clergyman who does not perform his duties as an elder at all toward those younger in the Church, or who performs it badly, or intentionally protects or recommends

incapable, undeserving or unworthy persons, or unjustifiably acts badly toward his flock or parties who officially come to him, shall be punished by disciplinary measures.

If a monastic clergyman conducts himself in this manner toward monks who are under his authority, he shall be punished more severly by the free discretion of the court.

4) *Insults and slanders which one clergyman inflicts upon another clergyman.*

ARTICLE 39.

A clergyman who insults another clergyman shall be punished by disciplinary measures.

If the insult was done publicly, or if it caused public scandal, or if repeated, shall be punished by the free discretion of the court.

If a clergyman insults a bishop he shall be punished according to the holy canons.

ARTICLE 40.

If one clergyman by his unbecoming behavior, gave to another a direct cause to insult him, the one so provoked may be punished more mildly, or he may be exonerated of any punishment, if the insult reverted to one younger in rank, inasmuch as it did not cause a public scandal.

ARTICLE 41.

A clergyman who brings out and spreads something untrue about another clergyman which might damage his priestly honor and dignity, shall be punished by disciplinary measures. If repeated or in more severe cases he shall be punished by the free discretion of the court.

ARTICLE 42.

The proving of truths concerning insults between clergymen is excluded.

Concerning slander, the proving of truths is allowable in such a case which does not deal with the private or family life of the one who was scandalized.

ARTICLE 43.

A penal action for insult and slander is undertaken only upon a private complaint.

5) *Extortion of unprescribed fees for priestly rites.*

ARTICLE 44.

A clergyman who for priestly rites extorts uncustomary fees and favors, or compensation in money in an unusual amount, not wanting to perform prestly rites for the customary of compensation, shall be punished by disciplinary measures, if repeated more severely.

A penal action is understaken only upon a private complaint.

6) *Debating and criticising in speeches of laws and orders of competent authorities and of their procedures.*

ARTICLE 45.

A clergyman who in speeches, sermons and writings, or before his entrusted flock, or before other clergymen, or otherwise disputes, criticize or mocks church rules and orders of ecclesiastical authorities, shall be punished by disciplinary measures, and if repeated or in a more severe case shall be punished by the free discretion of the court.

B. *Transgressions of church servers in minor orders, monastic persons and other faithful.*

1. Transgressions against the faith and teachings of the Church and church order, and
2. Christian morals.

ARTICLE 46.

Who among them commits the act of apostasy from the faith, or falls into heresy, perjury, simony, schism, blasphemy, sacrilege or commits murder or adultery, shall be punished by disciplinary measure, in a severe case by the free discretion of the court.

ARTICLE 47.

Anyone who denies obedience to his hierarchical church authority, or revolts or contrive a plot against it, or withholds due respect, to it, or insults it, slanders and degrades it, or does not recognize or refuses to fulfill its decisions and orders, or who does not receive his competent pastor, or disregards his religious and church duties, shall be punished by disciplinary measures, and in a severe case by the free discretion of the court.

ARTICLE 48.

Anyone who abuses the Church's trust and usurps church money or property, or manages, i.e., governs it contrary to rules and thereby to the damage of church or who keeps books not in good order and falsifies documents, or destroys them, or loses them, or who sells church property without approval of the competent church authority, and similar, shall be punished by disciplinary measures and in a more severe case by the free discretion of the court.

ARTICLE 49.

Whoever knowingly or under the influence of others speaks or undertakes anything against the church order, or church interests or the Church in general, shall be punished by final excommunication from the church community.

ARTICLE 50.

Whoever exemplifies unbecoming behavier as per articles, 22, 25, 26, 27, of these statutes, or who falsely testifies, shall be punished by disciplinary measures or by the free discretion of the court.

ARTICLE 51.

Whoever is engaged in procurement, or acts inhumanly and unworthily toward ones own spouse, or willfully breaks the marital tie, or behaves unworthily and inhumanly toward his parents and children or toward youngsters in the family community or toward other persons, shall be punished by disciplinary measures, and in a more severe case by final excommunication from the church community.

ARTICLE 52.

Monks or nuns who:

1. Violate monastic vows,
2. Establish a monastry without permission of the competent bishop or separates a monastery or monks or nuns from under his authority,
3. Or establish a cohabitant monastery, (i.e), in which monks and nuns live together, shall be punished by being expelled from the monastic order.

ARTICLE 53.

A monk or nun who in the capacity as superior of a monastery receives anyone into the brotherhood or sisterhood without permission of the competent bishop, or for bribery, or one not of prescribed age, or a feeble-minded person, or one bound in marriage, or who does not exercise supervision over the brotherhood or sisterhood, over their life, work, behavior and prescribed garb, or he acts toward him inhumanly or who does not keep the monastery rule, shall be punished by being expelled from the monastic order.

ARTICLE 54.

Should a monk or nun transgress against other duties regarding monastery regulations and taken vows, they shall be punished according to the monastery's internal constitutions.

III

PROVISIONS CONCERNING CHURCH PENALTIES

ARTICLE 55.

Church penalties are these: (A) For Clergyman of both orders:

1. Warning (reminder)
2. reprimand
3. penance
4. transfer to another place of service
5. temporary suspension of sacredotal officiation
6. lose of parochial service respectively any other position in Church
7. permanent suspension of sacredotal officiation
8. divesture of priestly rank; (defrocking)
9. divesture of priestly rank (defrocking) together with excommunication from the church community;

(B) For Church servers (minor orders), monastic persons and other faithful are these:

1. temporary suspension of certain rights and honors in the Church
2. expulsion from the monatic order
3. excommunication from the church community for a specified period
4. final excommunication from the church community.

ARTICLE 56.

Punishment for clergymen of both orders: warning, (reminder), reprimand, penance up to 15 days and suspension of sacredotal officiation up to 30 days, as well as punishments for church servers, (minor orders) monks and other

faithful, temporary suspension of certain rights and honors in the Church, respectively expulsion from the monastic orders for simple monks and nuns are disciplinary punishments; all others are punishments for church transgressions.

Disciplinary punishments for presbyters and deacons of both orders or for the faithful (article 5) are pronounced by competent bishops by their decisions, and the punishment of warning, (reminder) without formal investigation.

ARTICLE 57.

1. Punishments of warning (reminder) and reprimand are executed by written decision;

2. Punishment of penance is executed by sending one for a specified time into a monastery for repentance,

Penance for one transgression cannot last more than 30 days and is sustained in a monastery designated by the competent bishop.

A person sent to penance retains his renumeration while performance of rites, which during that period belongs to his substitute, and he also bears the cost of his stay at the monastery, the amount of which is determined by the enduring punishment except one half of the fees for the competent bishop.

3. The punishment of transfer to another place of service is executed by transfering the guilty party to a lesser place of service without compensation for traveling and moving expenses.

4. The punishment of temporary suspension of sacerdotal functions is executel by decision of the competent bishop; this suspension of the guilty party whether it be from some particular or from all priestly functions can be for a period of no longer than one year.

5. The punishment of loss of parochial service, respectively some other position in the church, is executed by relieving the person of his duty or position.

6. The punishment of life-time suspension of sacerdotal functions includes for always the suspension of all priestly functions for the whole life of the person so punished.

7. The punishment of divestiture (defrocking) from the priestly rank is executed by the decision of the competent bishop rendered on the basis of the final judgment of the Supreme Ecclesiastical Court within one month from the time the judgment was rendered. Insofar as this decision may have been for whatever reason not announced during this period, it shall be considered that the defrocking had become effective on the last day of this period. A (priestly) rank once properly taken away can never be restored. Divestment of the priestly rank includes the loss of all hierarchical rights and privileges of the condemned, and his return to the simple status of the faithful (laity). For clergy of the monastic order, this punishment also includes expulsion from the monastic order.

8. The punishment of divestiture (defrocking) from the priestly rank with excommunication from the church community is executed in a manner so that the defrocking is performed first, and then by the same decision the one defrocked is excommunicated from the church community.

ARTICLE 58.

1) Expulsion from the monastic order is for life.

2) Punishments of temporary deprival of certain rights and privileges in the Church are:

a) Excommunication from the holy sacrament of communion;

b) Exclusion from the fellowship of worship with the faithful;

c) Deprival of a funeral service;

d) Expulsion from the minor orders of: sub-deacon, reader, cantor;

e) Deprival of the right to work for church authorities and of membership in church bodies, institutions, choirs and other religious organizations;

f) Deprival of duty as church warden;

g) Deprival of rights of table in the church, and of the honor of being sponsor (kum)-host for the church patron saint commemoration and of other honors.

The punishment of excommunication from the church community for a specified period is for at least three, and at most ten years. If such a person becomes mortally ill and sincerely repents, the bishop may forgive the punishment.

By punishment of final excommunication from the church community with anathema, the excommunicated person is deprived of all rights and priviledges and of all other duties in the church as well as of all obligations.

For monastic persons, excommunication from the church community also includes expulsion from the monastic order.

For the remaining faithful (laity), every punishment of a church transgression also included the loss of rights of membership in church bodies for as long as the punishment lasts.

ARTICLE 59.

In determining a punishment, all alleviating or aggravating circumstances will be taken into account which may affect the punishment to be a lesser or greater one.

ARTICLE 60.

The right to apply church disciplinary punishments expires by statute of limitations if the guilty party is not punished within five years from the time when he committed the transgression, provided that during that time he does not commit a new church transgression.

ARTICLE 61.

Due Process is initiated and continued for all transgressions as official duty except in those cases where these statutes prescribe that the accused may be prosecuted only on the basis of a private complaint by the person who was damaged by that transgression.

A private complaint may be submitted within three months coming from the day when the injured party first learned of the committed act and of its perpetrator.

Upon submitting a complaint, the plaintiff is obliged to post a deposit towards the costs with the court in the amount set by the court.

A private complaint may be withdrawn at any time up until the main trial is held.

ARTICLE 62.

The right of special mitigation of punishments, namely: the punishment of life-time suspension of sacerdotal functions, respectively defrocking from the priestly rank and defrocking from priestly rank with excommunication from the church community—prior to their execution—belongs to the Holy Assembly of Bishops; while for all other punishments, to the competent bishop—up to one half of the decreed punishment.

IV.

REGULATIONS ON DUE PROCESS IN PENAL MATTERS

ARTICLE 63.

In Ecclesiastical Judicial matters, regular judicial authority is exercised by: 1) Diocesan Bishops, 2) Diocesan Ecclesiastical Courts and by the Supreme Ecclesiastical Court according to regulations of Art. 35, 108, pt. 19, Art. 115-135, and Art. 71-80, respectively Articles 214-224 of the Constitution of the Serbian Orthodox Church; while special judicial authority is exercised by those bodies provided for in Articles 70, pt. 35, and 69, pt. 27 of the Constitution of the Serbian Orthodox Church.

ARTICLE 64.

The Due Process relative to church transgressions committed by clergymen of both orders, by the minor orders, monastic persons and by the remaining faithful (laity), comes under the competence of the court of that diocese to which such persons canonically belong, respectively, concerning the laity, of that territory on which they are permanently settled. (Art. 25 of the Church Constitution). The Ecclesiastical Court which had competence to initiate the Due Process shall retain its competency until the Process is concluded.

ARTICLE 65.

Due Process is written—in Cyrillic. Parties correspond with the courts by way of petition, and in case of illiteracy, by oral deposition into minutes. In both cases, it is mandatory that the number and other statistics be entered from the personal (identification) card of the petitioner. Unsigned submissions shall not in any case be taken into consideration or process.

Communication with parties is conducted in writing by way of summons and decrees which are posted by registered mail or by return receipt, or are hand delivered through appropriate church organs upon receipt.

ARTICLE 66.

If a person accused of a church violation does not comply with the summons, or refuses to accept the summonses and decrees of the court, or does not chose to reply to them, it shall be considered that he acknowledges the act and Due Process shall be concluded without his participation.

For a person accused of a church transgression who is absent or for whom a place of residence or location is unknown, or if he be imprisoned, the court shall appoint a representative from among those clergy never punished

by the church with whom the Due Process shall be concluded, and which shall be published in the "Glasnik", the official journal of the Serbian Orthodox Church.

ARTICLE 67.

The initiation of the Due Process is not bound by any formalities.

When the competent bishop receives a report concerning a church transgression, or if word of the same reaches him, he shall evaluate the veracity of the same; should he find that the report is founded, he shall order that Due Process be initiated in which he shall, through his organs, respectively, through the clergy of both orders under his jurisdiction, or through church-congregational executive committees, examine and investigate the matter and conduct necessary hearings of the accused and of witnesses, as well as collect evidence.

No one can be punished by any church punishment without prior hearing.

Insofar as it exists, a copy of the written complaint may be sent to the accused, respectively, of the private complaint, so that he himself may reply in writing by his written explanation and hearing.

ARTICLE 68.

When the collection of necessary facts and evidence is completed, the necessary hearing of witnesses concluded, the competent bishop shall examine all documents, and when he finds the matter to be adequately clarified or established, he shall decide either to suspend any further action, i.e., by rejecting the report or private complaint, or he shall render a decree in his compentency, or he shall submit the matter to the court under his jurisdiction for Due Process. In that same decree he may also pronounce the suspension of sacerdotal functions to the accused clergyman—

with or without a lessening of his renumeration up to one half, respectively, relieving the accused of administrative duties until the Due Process is concluded if there be a question of abuse of a material nature.

ARTICLE 69.

Upon receipt of the subject matter, the court shall submit the written documents to the church court prosecutor to write up the indictment in as many copies as are needed, and together with the same to return the entire subject-matter to the court.

The Indictment must contain:

1) The name and surname of the accused, the designation of his personal statistical information;

2) Data concerning the competency of the Court;

3) The transgression described according to time, place, and manner committed for which the accused is being sued, and its characteristics which are necessary for the application of the penal regulations of these statutes;

4) The official designation of the transgression according to these statutes, with a citation of the prescribed punishment to be applied upon the proposal of the church-court prosecutor.

5) Exact citations of evidence; and

6) An exposition including the recommended punishment, and the signature of the church-court prosecutor.

ARTICLE 70.

The Court shall serve the indictment upon the accused together with a summons that he submit his written reply to the court within 14 (fourteen) days.

Should the accused not submit his reply to the indictment within that period, it shall be considered that he acknowledges the transgression and that he waives that

right. In his reply, the accused shall within the limits of the indictment point out all that he deems necessary to his defense.

ARTICLE 71.

Upon receiving the reply to the indictment, or should the court establish the fact that it was not submitted within the legally appointed time, the court shall, in a properly constituted meeting—always in secret session—study all documents and on the basis of thereof, voting first on the transgression and then on the punishment, decree the judgment. The punishment shall be proposed and the judgment decree written up by a member of the court whom the presiding officer may so designate.

ARTICLE 72.

The president bishop votes in a session of the Diocesan Ecclesiastical Court if the vote is tied. If unanimity was attained without the vote of the president bishop, or if the president diocesan bishop was substituted in the session by his deputy, then it is necessary for the validity of the decision that the president bishop be in agreement with the decision which was rendered without his vote. To the contrary, proceedings shall be in order according to regulation in Art. 128 of the Church Constitution.

ARTICLE 73.

All deliberations and voting are recorded in minutes which must be compiled immediately in session, and which shall be signed by the president, and by all members of the court who have participated in the deliberation, and by the recorder, and which shall contain in brief the written disposition—order of the court.

ARTICLE 74.

The judgment decree must contain: 1) The designation of the Court which had rendered it, 2) Designation of the person concerned in the subject, 3) Designation of the subject of the proceedings, 4) The decision about the subject-disposition, 5) An exposition with instructions concerning legal remedies, and 6) the date, number of the document, and the signature of the president and secretary with the seal.

ARTICLE 75.

On matters of conflict between clergymen of both orders because of church matters or over parish income, or because of real or liquid church properties designated for use and benefit of the clergy, the court shall, only upon a private complaint submitted by an interested party and after thoroughly investigating the entire matter on the basis of related evidence, render its decision in conference which is final.

ARTICLE 76.

In the event that civil judicial authorities punish a clergyman of either order for an act which also contains a church transgression, the competent bishop shall, on the basis of the final judgment, either act in his own comptency or he shall submit the subject matter to the church court under his jurisdiction for further action.

ARTICLE 77.

Judgment decrees by the courts of the first instance which call for: 1) the loss of service, i.e. position; 2) the suspension of sacerdotal functions for life; 3) divestiture (defrocking) of the priestly rank; 4) divestiture (defrocking) of the priestly rank with excommunication from the church community, and 5) final excommunication of the faithful (laity) from the church community, are submitted by official procedure to the court of the second instance for final review.

ARTICLE 78.

Appeals against judgment decrees of the courts of the first instance are allowed to be made to the court of the second instance except in those cases mentioned in Art. 108, pt. 19, and Art. 217, pt. 2 and article 69, pt. 27 of the Constitution of the Serbian Orthodox Church.

An appeal is submitted in the necessary number of copies through the court authorities of the first instance within 14 (fourteen) days from the day when the judgment was posted by registered mail or by return receipt, or when served through a church organ on receipt. An appeal not submitted within the prescribed time shall not be taken into procedure.

An appeal arrests the execution of the judgment decree until a final decision is reached.

ARTICLE 79.

An appeal may be submitted because of rulings in the judgment decree: concerning the transgression, the punishment, the legal consequences of the punishment, the time factor of the punishment relative to the duration of suspension of sacerdotal functions.

In an appeal it is not permissable to introduce new facts which were not part of the subject matter in the litigation before the court of the first instance.

ARTICLE 80.

The appeal must contain: 1) The exact designation of the judicial authority, citing the number and date of the judgment decree against which an appeal is being filed; 2) Designation of the reasons for which the appeal is being made; 3) The precise amendment or change being sought in the judgment which is being appealed; and 4) The signature, occupation, and place of residence of the appealant.

ARTICLE 81.

Upon receipt of an appeal, the court of the first instance may submit it to the church court prosecutor who may give his reply to the appeal within 8 (eight) days. The reply must be limited to the statements and demands of the appeal and must contain a specificly defined contra-demand.

ARTICLE 82.

The court of the second instance will annul the judgment decree of the court of the first instance:

1) If the Court of the first instance was not competent for hearing the case;

2) If it was not properly duly constituted;

3) If in the deliberations disqualified or bribed persons participated;

4) If while rendering the judgment decree church regulations from article 7 of the Constitution of the Serbian Orthodox Church were either violated, overlooked, or wrongly applied;

5) If the ruling in the judgment is in contradiction with the opinion, or if the opinion is in contradiction to the judicial documents upon which it is based, and,

6) If according to the circumstances of the case. the judgment rendered was too lenient and not commensurate with the transgression.

ARTICLE 83.

The court of the second instance shall uphold the judgment decree of the court of the first instance if Due Process was properly observed according to these statutes, and if the judgment in all its parts is justified and issued in proper form.

ARTICLE 84.

When the judgment decree is upheld in its entirety, an opinion to this effect is not necessary unless the opinion of the court of the first instance was incomplete or in error.

ARTICLE 85.

If an appeal was obviously unfounded, or insolently submitted, or if it was calculated to mislead the judicial authorities of the second court instance, the higher court may punish the appellant for insolence.

ARTICLE 86.

Should the court of the second instance find, that in annulling a judgment decree that a new trial was not necessary before the court of the first instance, it shall render only a final verdict which would always be accompanied by an opinon.

The court of the second instance may in a special communication give instructions to the court of the first instance relative to all noticed errors.

ARTICLE 87.

The verdict of the court of the second instance is final and must be executed.

It is referred to the competent bishop through the court of the first instance for execution on accordance with provisions of Articel 57 of these Statutes.

ARTICLE 88.

A petition for exceptional mitigation of a punishment is submitted to the competent bishop who will himself decide if it is in his competency, or he will forward it to the Holy Assembly of Bishops with his opinion and recommendation.

There is no appeal against the decision of the diocesan bishop in which he may deny a petition for exceptional mitigation of a punishment.

A petition submitted for mitigation of punishment does not arrest the execution of the punishment.

The competent bishop may punish one who insolently repeats a petition for mitigation of punishment.

ARTICLE 89.

Relative to the payment of church taxes in court proceedings, the Ordinances on Church Taxes is obligatory.

Other church court expenses, if any, are borne by the guilty parties. Should someone in his own behalf seek a court action involving expenses, he shall be obliged to deposit with the court authorities in cash an amount designated which will be accounted for in the final decision.

ARTICLE 90.

In those cases provided for in Art. 69, pt. 27, and Art. 70, pt. 35 of the Constitution of the Serbian Orthodox Church, the rights of the diocesan bishop as provided for by these statutes shall be assumed by the Holy Assembly of Bishops, respectively, the Holy Synod of Bishops according to the regulations of the Constitution of the Serbian Orthodox Church and the regulations of these bodies for conducting business.

ARTICLE 91.

All those clergymen who have willfully abandoned or who in the future shall abandon church service, and who do not respond to the summons of their bishop (Art. 218 of the Constitution of the Serbian Orthodox Church) to return to service of the church, as well as clerics of the monastic order who have entered marriage and who do so in the future, shall be considered defrocked from the clerical and monastic ranks.

This shall be officially established by the diocesan bishop by his declaratory judgment which is final, and of which he shall inform the Holy Synod of Bishops.

ARTICLE 92.

The Statutes have been enacted by the Holy Assembly of Bishops of the Serbian Orthodox Church, in accordance with Articles 57 and 69, pt. 10, of the Constitution of the Serbian Orthodox Church, but its decision AS No. 29/min.

45 of May 10th, 1961. These Statutes will be announced in the "Glasnik", the official journal of the Serbian Orthodox Church, and they become effective and binding for the whole church on July 1st, 1961, at which time all previous statutes relative to this matter are no longer in effect.

PLAINTIFF'S EXHIBIT 71

D.prtocol no. 194
June 3, 1963

To:
The Holy Bishops' Synod
of the Serbian Eastern Orthodox Church
Belgrade, Yugoslavia
Your Holyness,
Brothers, Bishops, members of the Holy Bishops' Synod and Assembly,
Bless.

Acknowledging the receipt of the official document no. 1664/min. 188 of May 20, 1963, I declare: I DO NOT RECOGNIZE THE DECISION OF THE HOLY BISHOPS' ASSEMBLY AND SYNOD ABOUT DIVIDING THIS ONE DIOCESE INTO THREE NEW DIOCESES, NOR RECOGNIZE I MY SUSPENDING AND ABOLISHING FROM MANAGING OF THE DIOCESE, nor shall I give my duty until the Diocesan Church-National Assembly, because the said decisions were made against the Constitution and the Law.

I recognize, besides God's, certainly the competence of the Holy Bishops' Assembly and Synod when they do in compliance with canonical and legal rules. Also, I recognize the judgment of this people here to whom I in a most devoted and faithful way served for 23 years with all my means, knowledge and abilities. That is why I expect judgment of the people gathered on their Church-National As-

sembly. If the Assembly also sentences me, as you did that, that I shall say: as always I do—"O Lord, let Your will be sacred", and shall give up my duty.

Why cannot I recognize the DECISION of the Holy Bishops' Assembly? Because of the same reason that I mentioned in my Report to the Assembly regarding the Patriarchian Delegation. In my case, you brothers Bishops, brace the Constitution of the Patriarchate itself, paragraph 218 which says: "Nobody shall be (cannot be) punished by any church punishment without a previous ques'' ning (hearing)." And nobody heard me, nor asked me to, nor did anything send me to reply to anything that would look like a complaint or report indicating anything as a guilt made. At the same time, you broke also paragraph 67 of the Penal Rules that you yourselves have recently made. Also, you broke paragraphs 219 and 220 of the Constitution of the Patriarchate. On the ground of the paragraph 219 you have put me under forbidance of carrying out clerical duties; and on the basis of paragraph 220 you have dismissed me—as a person who misused church property—from bishopal position of this Diocese and took away from me the right to manage it. However, the fact are:

1.) Several complaints started against me since 1943, especially from communistic cells of America and Canada. The suggested my document to the Diocesan Council in 1957 is the best evidence of that. You yourself know how many times the communistic regime required you to dismiss me, to punish me or at least to decrease by anticommunist and national Serbian activity. Some of the complaints originated within the period 1952-1957. Only one of them, yeromanach Arsenije Tesevic's, was given to me to reply to. My answer I gave and it was filed. At that time, the leading part of the Serbian National Defense (Srpska Narodna Odbrana) under the presidency of Mihailo Ducic, was against me.

Some of the indictments were published, in the form of articles, the papers "Jedinstvo" ("Unity") in Chicago, especially in the column "Diocese or Anarchy". The editor of the column is Mr. Momcilo Djujic. In the same column some other persons take part, and I had to sue the said newspaper, the editor, participants and owner of the newspaper. In the indictment I mentioned Mitar Bulatovic, Savo Vujnovic, Luka Pejovic and other his assistants—Djujic and others. In the meantime, Mr. Luka Pejovic sued the Serbian National Union (Srpski Narodni Savez), but he declared—if I withdraw my indictment against him—he would withdraw his against the Union. Then Dr. Uros Seferovic intervened, and there was a correspondence with the Union, so finally I withdrew my indictment for the sake of peace and unity in our emmigration. But, they did not withdraw their indicments and reports addressed to the Holy Bishops' Synod against me! The said reports the Holy Synod has never sent me for purpose of a reply. Also, there are private letters of some persons here sent to some bishops, friends, and by that I was charged as well. Metropolitan Damaskin himself told me about that, that Mr. Milutin Devrnja wrote a couple of letters against me to Bishop Hrizostom and others.

Mister Metropolitan Damaskin privately told me that there is an accusation of a "certain" lawyer. Most likely, the late Silaski's. That indictment would be exactly 15 years old. Nobody did ever send it to me for a reply! In connection with the same accusation, the present Patriarch himself, during his visit here in 1951 as a Secretary of the Holy Synod, told me the accusation was thrown into a waste paper basket. Well, why did not they send it to me for an answer in due time? As a matter of fact, I officially do not know who is accusing me and for what! Why then do the Holy Bishops' Assembly and Synod punish me? My reply

is—UNDER THE PRESSURE OF THE REGIME! Because, if they wished, they had plenty of time for a canonical and legal investigation and study of all complaints, and then to decide upon.

2.) The Patriarchate delegation last year received some "indicments" against me also from the priests who were the members of the political organization "ZBOR." Then, from the same ones and some others—the members of the Priests Association from their Assembly in South Bend, Indiana. In the year 1953, Duke Momcilo Djujic wrote to me that he condemned writing of the newspaper "Jordanville Missionary" as well as those who try to spoil my reputation. At that time, he praised me as a best Serbian bishop. In 1962 he started attack against me—certainly because of some personal reasons. By one his letter dated Dec. 8, 1949, he attacked priest Glocar and said that he (Glocar) "draws a red furrow in his parish." Now, he begins to defend him, and is supported by some priests in "Zbor", though he attacked them severely in 1958!

On one of our meetings (held on March 5, 1961) he openly atacked Patriarch German who "has completely accepted service to the communistic regime and systemtically destroys our Church in the fatherland," demanding a struggle against the Patriarch to commence "in order to stop the evil." I defended his Holyness the Patriarch. I was supported also by Dr. Milan Gavrilovic and that is why a struggle against the Patriarch did not begin by us. Now, it does not bother Djujic to copy the Synod Epistle to the people here and distributes it to the people against me, together with the members of the movement "Zbor." In a home of a well-known member of "Zbor", e.g., it is known, an insulting circular letter was written. It was signed by Dr. Puric against me! Him and some priests the Delegation of our Patriarchate believed, received their complaints

against me; and now on the basis of those slanders, you brothers the bishops, sentenced me! I asked the Delegation to present me a report: what and by which priest was something written against me; or reported, but nothing was given to me to see.

3.) The Patriarchate Delegation reported to the Assembly. I sent mine. Copies of the report I gave, before the Assembly, to the members of the Delegation. Mister Damaskin made no objection to my report, and Mister Nikaner of Backa—when I asked him "How long the Holy Bishops' Assembly can defend me from the regime?", he did not say anything, but when he received my report, he wrote me it is not true what I asked him. And everybody can confess how much they used to talk to me against the communists and the regime, to me and to everybody. The report of the Delegation is, accordingly, partial, untrue and not in compliance with the reality. On the basis of that report I lost my Diocese, am suspended and sentenced. I categorically request to have a copy of that report to have it compared here with my report in order to see which of them is true, which one should be trusted and which one shouldn't. So far I have been an official member of the Assembly and accordingly I request that and have right to request as a member of the Holy Bishops' Assembly.

How is it possible that all the "numerous indictments" against me the Holy Bishops' Synod keeps for years in its chest of drawers, and has found that I, in conformity with the paragraph 219 of the Constitution, by my life and work cause scandal in the people, and before did not want to realize that—if there is any—but does realize that now, after so many years? Now is my life and work "scandal to the people," as cited in the said paragraph of the Constitution?! But, this is what is true: now my work is more dangerous for the communistic regime, because on the field of struggle I really have become more active. And the

Holy Bishops' Synod knows very well, as I told the Delegation, it should give me all the indictments for a legal reply, not to prejudge a sentence which eventually put on Bishop Dionisije, in case they are false and cannot be proved. Why did these my accusers hide the Holy Bishops' Assembly and Synod?

4. On the basis of the paragraph 220 of the Constitution of the Patriarchate, the paragraph that refers to the material misuses, takes my Diocese away from me, and for the vacant Diocese appoints an administrator. Neither the Patriarchate, nor the Delegation did not require any report concerning the misuses in question, the misuses from the Diocesan Executive Committee or Council, or from me, or from any other official body of the Diocese. It simply received the reports "for granted", and suspended fo from the bishopal duty! These slanders are originated and last since 1951 when Momcilo Djujic refused to come to consecration of Shadeland because, he said, Bishop Dionisije did considerable material misuses. About the misuses it was discussed also on the meeting of the clergy in South Bend, Indiana in front of the Delegation, Mister Damaskin was almost for three months in America last year and he had time—if he wanted to—to see whether at least this indictment was true. He did not do that, but in his false report suggested my dismissal from the Diocese! What would be his next move? To suggest cancelation of my rank because it must be my great sin when I publish my defense the same way the Holy Synod published my sentence! The Holy Bishops' Synod informed the public about its decision; it is right that Bishop Dionisije also informs the public about his defence.

The mentioned paragraph of the Constitution says that it is necessary previously to estimate the truthfulness of a report, to examine and study a matter, hear the accused, even to send him a copy of an indictment for purpose of a

written explanation—and then to make a decision. The Holy Bishops' Synod did not do that; neither did that the Holy Bishops' Assembly, nor did any of the competent. But, it was exactly like: We have to eliminate him, we have to find him a guilt, because his activity, national-political activity "bothers us in the country," as was said in Paris and New York by the Delegation Secretary, protedicom Braza Petrovic! Why does it bother them? The communism puts a pressure on them because of me; the communists do not like what I do against them, and try to destroy that. I understand that, and that is why I cannot accept this Decisions which are unjust, illegal and noncanonical.

Your Holyness, brothers the Bishops, be sure that above you there are two courts: God's and people's. Both shall reach all of you. With what you decided you annoyed this peaceful and good people of Serbian colonies, communities, associations and organizations. You shall also cause a split in our Church and an one in this very Diocese. You know, you enabled Tito's regime to step into this Diocese. Tito wins now and St. Sava loses. But, together with all the patriotic Serbdes I will remain on the line of a struggle against communism. There shall take place split also in other parts of the Church—in dyaspora. You shall see for yourselves how much of the people shall stay with the Patriarchate! This Diocese does not split, but does not allow you to push it under Tito's control. To me, however, let the mercyful God be good, and I repeat: LET HIS HOLY WILL PREVAIL and GLORY TO GOD FOR EVERYTHING.

Peaceful servant
American-Canadian Bishop
Rt. Rev. Bishop Dionisije
Dionisije
(signed)

PLAINTIFFS' EXHIBIT 72

The Holy Synod of Bishops
of the Serbian Orthodox Church
No. 1733 and 1759/min. 335
May 15, 1969
In Belgrade

EXCERPT

From the Minutes of the Meeting of the Holy Assembly of Bishops for 1962.

In these Minutes in which it is noted that the meeting was held June 12, (May 30) 1962, in the Patriarchal Palace in Belgrade, on pages 49 and 50 this is recorded:

"Min. no. 50

HOLY ASSEMBLY No. 19

The Holy Synod of Bishops by Act No. 1712 of June 2, 1962, forwards the proposal of His Grace the American-Canadian Bishop Dionisije that the Diocese entrusted to him be elevated to the rank of Metropolitanate, to effectuate the boundaries of the same and elect two to three vicar bishops.

His Eminence Metropolitan Danilo of Montenegro and Coastal regions reports in behalf of the Legislative Committee.

After due consideration the Holy Assembly of Bishops decides:

'By reason of the proposal of His Grace Bishop of America-Canada Dionisije, that the Diocese under his jurisdiction be elevated to the rank of Metropolitanate, that to the same be added South America and South Africa and that a decision be rendered for the election of two to three vicar bishops to him, to recommend to the Holy Synod of Bishops to appoint a Delegation which will travel to America, study the questions set forth on location in agreement with His Grace the American-Canadian Bishop Dionisije, and to make concrete proposals for the next session of the Holy Assembly of Bishops.'"

That this Excerpt from the indicated Minutes is faithful to its original, is certified and attested unto by

May 15, 1969
the Patriarchate
BELGRADE

(SEAL)

The Supreme Secretary
of the Holy Synod of Bishops
s/ Mladen Mladenovich
Archpriest

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 73

HOLY SYNOD OF BISHOPS
OF THE SERBIAN ORTHODOX CHURCH
No. 1733 and 1759/min. 335

May 15, 1969
IN BELGRADE

EXCERPT

from the Minutes of the meeting of the Holy Synod of Bishops for 1962.

In these minutes on page 258 it is recorded that the meeting of the Holy Synod of Bishops was held on June 29, 1962, in the Patriarchal palace in Belgrade.

Besides other matters which were decided upon at this meeting, on pages 259 and 260 of the Minutes this also is recorded:

"366

1856

The Holy Assembly of Bishops of the Serbian Orthodox Church informs that under Holy Assembly No. 19/min. 50 of June 12, 1962, it rendered the following decision:

'By reason of the proposal of His Grace Bishop of America-Canada Dionisije that the Diocese under his jurisdiction be elevated to the rank of Metropolitanate, that to the same be added South America and South Africa and that a decision be rendered for the election of two to three vicar bishops to him, to recommend to the Holy Synod of Bishops to appoint a delegation which will travel to America, study the questions set forth on location in agreement with His Grace the American-Canadian Bishop Dionisije, and to make concrete proposals for the next session of the Holy Assembly of Bishops.' "

After due consideration the Holy Synod of Bishops

decides:

Fulfilling the decision of the Holy Assembly of Bishops' Holy Assembly No. 19/min. 50 of 1962, the Holy Synod of Bishops appoints a delegation which will go to the United States of America in the month of September of this year.

Appointed to the delegation are:

His Eminence Metropolitan Damaskin of Zagreb,

His Grace Bishop Nikanor of Bachka, and

Protodeacon Branislav Petrovich, secretary of the Diocesan Executive Board of the Archbishopric of Belgrade-Karlovci.

The mission of the delegation is, in agreement with His Grace the American-Canadian Bishop Dionisije and in connection with his submitted proposal, to study on location the questions:

The Elevation of the American-Canadian Diocese to the rank of Metropolitanate, the adding to this Diocese of South America and South Africa, and the election of two to three vicar bishops to the American-Canadian Bishop, as also other things which the Delegation finds appropriate and necessary to do.

Concerning this decision to inform the members of the Delegation and His Grace the American-Canadian Bishop Dionisije.

That this excerpt from the indicated Minutes is faithful to its original is certified and attested unto by

May 15, 1969
The Patriarchate
Belgrade

(SEAL)

Supreme Secretary
of the Holy Synod of Bishops
s/ Mladen Mladenovich
Archpriest

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 74

DIONISIJE, BY THE GRACE OF GOD, AMERICAN-CANADIAN SERBIAN ORTHODOX BISHOP,
St. Sava Monastery, Libertyville, Ill.
May 25, 1963

To all Serbian Orthodox American and Canadian clergy,
To all Church-school congregations,
To all patriotic Serbdom of America and Canada.

Respected reverend fathers, dear brothers,

Today's air mail brought a circular letter from Belgrade with the signatures of His Holiness the Patriarch and remaining members of the Holy Synod of Bishops, directed to all the American and Canadian clergy as well as to many prominent laymen of various cities, which appeals that order and harmony be preserved, that the unity and wholeness of our Holy Church be preserved, but which besides other things, says also this:

"The Holy Church at its annual session this year of the Holy Assembly of Bishops rendered several decisions having in view your spiritual needs and progress. She thus obligingly met the often repeated proposals of the clergy

and people, that for such extensive territory in the New World more dioceses be established and more Bishops appointed, and so in place of the former American-Canadian Diocese She formed three dioceses: The Mid-Eastern American-Canadian Diocese, the Mid-Western American Diocese, and the Western American Diocese. As bishop of the Mid-Eastern American-Canadian Diocese She elected the Very Reverend Archpriest Stevan Lastavica, pastor in Windsor. The Rt. Rev. Bishop Dionisije remained for the Mid-Western American Diocese. However, since he was because of a number of charges, upon the recommendation of the Holy Assembly of Bishops and by decision of the Holy Synod of Bishops, temporarily relieved of duties and placed under suspension of priestly functions until a final decision by the canonical court, the administration of that diocese is entrusted to the temporary administration of the Very Reverend Archimandrite Dr. Firmilian Ocokoljich. The Very Rev. Archimandrite Gregory Udicki, pastor in Youngwood, is appointed as temporary administrator of the Western-American Diocese."

The Circular was obviously made in a great hurry and in some office outside the Patriarchate for the sake of multiplication, and it was left without a date, and without the number of the protocol number of the Holy Synod of Bishops. The circular in essence agrees with the news in the Yugoslav press, which Tanjug transmitted to the American press.

The mentioned circular contains two facts: the first, division of this one Diocese into three new dioceses, and second, my temporary release from duties as the American-Canadian Bishop and being placed under suspension of priestly functions until a final verdict concerning the "many charges" which the Holy Synod of Bishops received against me. On both of these facts I give the following reply:

1. THE DIVISION OF THIS DIOCESE INTO THREE, WAS RENDERED WITHOUT CONSULTATION AND AGREEMENT EITHER OF THE PATRIARCHAL COUNCIL OF THE PATRIARCHATE ITSELF, ART. 16 of the CONSTITUTION, nor with the Diocesan Council and people of this Diocese, which needs to receive and to support the new dioceses and bishops.

By this act the Holy Assembly of Bishops in Belgrade committed an outrage towards this people and Diocese; it also annulled so to speak its Constitution. It had taken from the same even this autonomy which it had heretofore, annulled many articles of the Diocesan Constitution, and in so doing annulled article 15, point 1, of its Constitution of the Serbian Orthodox Church.

Never did our Diocesan Church-National Assembly, or any other diocesan body propose any kind of division of this Diocese into more dioceses. To the contrary, from here was sought that the territory of South America and South Africa be added to the territory of this Diocese. Tito's communistic authorities opposed this, and not only did they not allow it, but ordered Patriarch Vikentije to take from my administration the entire diaspora which was given to me by Patriarch Gavrilo. But I nevertheless organized the entire Serbian Orthodox Church in foreign countries, outside Yugoslavia.

When the Delegation from the Patriarchate was here last year, it stated, when we here sought certain changes and amendments to our diocesan Constitution, that neither the Constitution of our Diocese, nor the Constitution of the Patriarchate, can be and must not be changed today in these times, when the communists and various elements, for example the Clergy Association, and others, could infiltrate the organism of the Church and thusly disturb Her normal life and development. However, now the Holy Assembly of Bishops itself changes that Constitution, violates

its decisions and renders new ones! That cannot be interpreted in any other way than pressure of the communist regime upon our martyred Church in Yugoslavia.

The appointing of Archpriest Stevan Lastavica, who is in this Diocese since only three years ago for the Mid-Eastern American-Canadian Diocese without any agreement or at least consultation of our people, means that the Holy Assembly of Bishops has completely ignored the petitions, wishes and demands of the Church-National Assemblies of this Diocese, and it appointed, that is elected, that man who is against every autonomy of this Diocese, who is for full subordination to Belgrade, which can be interpreted as both ecclesiastical and political. It means that even in the future the Holy Assembly of Bishops will not honor the petitions, desires and demands of this Diocese and its faithful, but will appoint as bishops those it wishes. However, it is known that even in many lesser and simpler questions our Church does not have a free hand, nor freedom of work and action, so why then can't it be seen that this is sought and desired by Tito's communist regime which is hindered by the work of this Diocese, which endeavors through bishops loyal to it to subordinate all this part of free Serbdom! It is clear that the communist regime in Yugoslavia, which has broken the unity of the Serbian Orthodox Church with the creation of the Macedonian church, is here, in America and Canada, in the free world, breaking the unity and wholeness of the Serbian Church in foreign countries by breaking our Diocese. By not allowing His Holiness the Patriarch to annex the territory of South America and Africa to this Diocese, is hindering the strengthening and growth of our Diocese, while the breaking up of this Diocese shows clearly the communistic aims.

2. RELATIVE TO THE TEMPORARY release from duties as American-Canadian Bishop and being placed under suspension of priestly functions until final decision of the canonical court because of "many charges," I state the following:

In recent years the Holy Assembly of Bishops has warned me several times "not to preoccupy myself with politics" for the reason that I fight against communism in all its forms. It was cited that this hinders them in Yugoslavia, which means, they (the Patriarch and Synod) are being pressured by the communist regime and forced to take some action against Me. The President of the Delegation himself, Metropolitan Damaskin, told me that I should establish ties and cooperation with Tito's communistic representatives in America and Canada, which I rejected. He protested because I on two or three occasions, at banquets of Church-school congregations, openly attacked communism and Tito, and stated that I am for the ideological struggle of General Drazha Mihailovich. Therefore, I am being persecuted by the communistic regime through our Patriarchate in Belgrade!

Concerning the "many charges" against Me, which are directed to the Holy Synod and the Patriarch, I have on several occasions given statements and stand by the same: that I do not flee from any kind of just Court, either of the Holy Assembly of Bishops, or of our people, or an American one, nor of any kind. When the Delegation was here last year I openly asked that all the charges be sent to me for a lawful reply, so I could see who is charging Me, and why he is charging me! I sought and am seeking my right as an American citizen to a lawful defense and all the more so because I do not feel guilty. Neither the Holy Synod nor the Patriarch have sent me a single solitary

complaint for reply for more than ten years! What were they waiting for if I was guilty? By adjudging Me this punishment, Article 218 of the Constitution of the Serbian Orthodox Church is violated, which states that no one can be punished with any punishment without a prior hearing. This is specifically prescribed by Church Penal Law /Art. 37. Bishop Milas/! Therefore, since I was not given the right to a prior hearing, this verdict upon Me is UN-CANONICAL.

In no way did I transgress my episcopal oath; in no way did I violate the directives and decisions of higher church authorities, nor have I acted against the holy canons and teachings of our Holy Church. THEREFORE, I DO NOT RECOGNIZE EITHER THE DIVISION OF OUR DIOCESE, NOR THE PUNISHMENT ADJUDGED ME, RENDERED WITHOUT ANY KIND OF COURT PROCESS, WITHOUT ANY KIND OF INVESTIGATION, without any kind of reply from Me. If it be proven that I am guilty, I will accept every adjudged penalty, but beforehand nohow and never! I shall appeal such an unlawful penalty wherever I can find the possibility. For this reason I am not surrendering the duties as American-Canadian Bishop until the Diocesan Church-National Assembly which will be held this fall, and not even then if the people do not find me guilty. And until regular church court process before a higher church forum, I do not either recognize the suspension from priestly functions. After such due process, if they find Me guilty and am judged, I will accept every punishment.

I CALL UPON ALL AMERICAN AND CANADIAN SERBDOM, CLERGY AND CHURCH SCHOOL CONGREGATIONS TO REJECT AS UNJUST AND UNCANONICAL THE DECISION OF THE HOLY ASSEMBLY OF BISHOPS AND SYNOD.

We have until now preserved the unity of the Serbian Orthodox Church, that is, of our Diocese and our Patriarchate. In 1951, when the present Patriarch German, then secretary of the Holy Synod of Bishops, was in America, I together with Archimandrite Firmilian, told him: "We shall always remain for the wholeness of our Holy Church, if the Holy Assembly of Bishops and the Patriarch do not mingle in the internal order and affairs of our Diocese." Up to now they did not interfere, because they somehow resisted Tito's assaults. Later, when the Delegation of our Patriarchate was here last year I personally pleaded: THAT THE HOLY ASSEMBLY OF BISHOPS NOT BY SOME THOUGHTLESS GESTURE PROVOKE THIS OUR GOOD PEOPLE. By this which is now being done, it can be seen that My plea was not considered, and Tito's communistic regime does not choose its means for liquidating its enemies. Our people of this Diocese are now disturbed and can easily decide, for the sake of protecting their rights, to not recognize in the future any decision of the church authorities from Yugoslavia, as they do not recognize any kind of decision of the communistic authorities, nor even Tito's communistic totalitarian regime. Here I cannot stop them: the fault for that will fall equally upon Tito's communistic regime and upon the Holy Assembly of Bishops and upon the Patriarch himself, His Holiness German. +

At the end I pray to the merciful God and the protector of our Holy Church, Saint Sava, to gather all patriotic Serbdom of the whole world, to continue with us the struggle against communism in the world, for the good of our new fatherland America and Canada—for the preservation of their constitutions, and for the liberation from communism of our enslaved Serbian People.

Given in Our Residence
in the Serbian Orthodox Monastery of St. Sava,
Libertyville, Illinois
SERBIAN ORTHODOX AMERICAN CANADIAN
Bishop s/ +Dionisije

Responsibility for this will also fall on Mr. Momchilo Djujich and his group for his slanderous and disruptive actions and propaganda among the American and Canadian Serbs. Then responsibility will also fall on the group of priests of this Diocese who are members of the "Priests Association," who in their resolutions that do not state that they are for the King and that they are fighters against communism, emphasized loyalty and submission to the Patriarchate, but condemn Me because I advocate and defend the autonomy of this Diocese.

All of them, consciously or unconsciously have given moral support to the communistic line of attack on Me, which long ago sought my removal. Many of them have written complaints and leaflets against Me to Belgrade personally seeking my removal. Upon their catastrophic action came the mentioned unjust, unlawful and uncanonical decision of the Holy Assembly of Bishops.

(translator's certification omitted)

PLAINTIFF'S EXHIBIT 75
Translation
SERBIAN EASTERN ORTHODOX DIOCESE
for the United States of America and Canda
Serbian St. Sava Monastery
Libertyville, Ill.
U.S.A.

June 6, 1963.

Diocesan Council-Plenum of the
Serbian Orthodox American-Canadian Diocese.
Esteemed brothers, Reverend fathers,

On today's very important and fateful meeting for our further life and existance of our Diocese and Church outside of Yugoslavia, I consider it for my duty to submit to the following:

1. Considering the judgment imposed upon me as illegal and unjut, I declared: I DO NOT RECOGNIZE IT, until investigation upon me is first done and until all complaints are not sent to me for legal answer. Up to today I did not receive anything. I asked for this several times from Belgrade.

2. Since the various complaints and leaflets of intrigues were following from here, from America and Canada against me as American-Canadian Bishop, I consider it proper to inform this people to be acquainted with it, and that Diocesan Plenum makes investigation of these complaints. For I am with this people 23 years, and let this people judge me, if I am guilty. Therefore, I ask Diocesan Ecclesiastical Court with Diocesan Plenum urgently ask the Holy Bishops Assembly that the same complaining material in duplicate send here, and then open investigation on everything and finish with it before our Church-People's Assembly, which will bring decision whether or not want me for a bishop of this Diocese or not. I will obey such a decision, if it done according to all legal rules, and submit to it.

3. Until then, that all complaints are not investigated, until plaintiffs see me eye to eye, and given me right to answer all complaints, and then adjudge me here or send it to the Holy Bishops Assembly with their recommendations, I cannot surrender my duty as the Bishop of this Diocese. If all this is not finished before our Church-People's Assembly, I will on recommendation of our Assembly, I repeat, submit to it.

4. I cannot surrender the duty of governing the Diocese also because I do not know how to do it, since Archmandrite Firmilian is appointed as an administrator the new Midwest Diocese and not the whole (old) Diocese. the question is risen whether or not the Diocesan Plenum recongnises division of one Diocese into three new ones or not? If it recognises, this should be sanctioned by Diocesan Church-People's Assembly, before it can be settled, if it does not recognize, then drops off any kind of surrendering of duty, until first everything is clear.

5. The duty of governing of the Diocese I cannot surrender also because according charters of our Diocese, I am from Assembly to Assembly official president of our boards, who handle our properties and the Diocese. When our Church-People's Assembly take away this duty, then I do not givern our monasteries, and in my place comes another Bishop, accepted by the Assembly.

With blessings

Bishop

That this photocopy is exact with its original which it refers to, and which is kept in the archive of the Holy Episcopal Synod.

May 28, 1969 Supreme Secretary,

(Seal) Belgrade of the Holy Episcopal Synod,

Very Rev. Mladen Mladenovich (signed)

P.S. (hand written note)

Besides that I consider and have conviction that mentioned decision was brought under pressure of communist regime in Yugoslavia.

PLAINTIFFS' EXHIBIT 76

DIONISIJE, BY THE GRACE OF GOD, SERBIAN ORTHODOX BISHOP OF AMERICA AND CANADA,
St. SAVA MONASTERY, Libertyville, Ill.

E. NUMBER 194. June 3, 1963

To all clergy

To all Church-school congregations

Members of the Diocesan Plenum and

To all patriotic Serbdom of America and Canada:

Reverend fathers, and dear brothers,

By reason of the decisions of the Holy Assembly of Bishops and Synod concerning the division of this Diocese and my "temporary" suspension, I replied to them with this letter:

"Your Holiness,

Brother Bishops, members of the Holy Assembly of Bishops and Synod, give your blessing,

"Acknowledging receipt of act number 1664/Min. 188 of May 10, of this year, I declare: I DO NOT RECOGNIZE THE DECISIONS OF THE HOLY ASSEMBLY OF BISHOPS AND SYNOD CONCERNING THE DIVISION OF THIS ONE DIOCESE INTO THREE NEW DIOCESES, NOR MY SUSPENSION AND REMOVAL FROM THE ADMINISTRATION OF THE DIOCESE, nor shall I surrender the duties up until the Diocesan Church-National Assembly, because the mentioned decisions are unconstitutionally and unlawfully rendered.

"I recognize over me, besides that of God's also, to be sure, the jurisdiction of the Holy Assembly of Bishops and Synod when they adhere to canonical and lawful regulations. Then I also recognize the judgment of these people whom I have most loyally and most faithfully served in every way that I could and knew for 23 full years. That is why I await also the judgment of these people gathered at their Church-National Assembly. If they also condemn me as you have done, then I shall as always say, Lord, let Thy holy will be done, and I will surrender the duties.

"Why can I not recognize the DECISIONS of the Holy Assembly of Bishops? For the same reasons I have cited already in my report to the Assembly concerning the Patriarchal delegation. Relative to my case, you have, brother

bishops, violated the Constitution of the Patriarchate itself, article 218, which states: 'No one can be punished by any church punishment without a prior hearing.' And no one gave me a hearing, nor sought this from me, nor sent me anything for a reply which could even resemble any kind of complaint, or a submission concerning anything which could be imputed to me as a fault. At the same time you have violated article 67 of the Penal Code which you have recently adopted. You also violated articles 219 and 220 of the Constitution of the Serbian Patriarchate. On the basis of article 219 you have suspended me from priestly functions, and on the basis of article 220, you have deprived me from the position as Bishop of this Diocese as a person who has embezzled church property, and have taken from me the right to administer the same. However, the facts are these:

"1. Various charges against me began back in 1943, especially from the communistic cells in America and Canada. My enclosed report to the Diocesan Council in 1957 best testifies to this. You yourselves know how many times the communist regime sought from you my removal, punishment, or at least that I lessen my anticommunistic and national Serbian activity. Some of those charges originated in the period between 1952 up to 1957. Only one, that of priest-monk Arsenije Tosevich, was sent to me for my reply, which I have given, and the same was left among the acts. During that time the leadership of the Serbian National Defense, under the presidency of Michael Duchich, was against me.

"The Chicago newspaper *Unity* revealed some charges in the form of articles, especially in the Column 'Diocese or Anarchy,' by Mr. Momchilo Djuijich. Others also collaborated and so I had to sue that newspaper at court, as also

its editor, collaborators and owner. In the suit, I named Mitar Bulatovich, Sava Vujnovich, Luka Pejovich, and the remaining collaborators, Djuijich and others. In the meanwhile Luka Pejovich sued the Serb National Federation, but declared that that if I would withdraw my suit against him, then he would withdraw his suit against the Serb National Federation. There ensued then the intervention of Dr. Urosh Seferovich and correspondence with the Federation, and finally I withdrew my complaint for the sake of peace and unity in our emigration. Yes, but they did not withdraw their charges and submissions against me directed to the Holy Synod of Bishops! The Holy Synod never did send me those submissions for reply. Included here are also private letters of some persons from here to various bishops—friends, and this too is taken as an aggravated circumstance against me. Concerning this, Metropolitan Damaskin himself told me that Milutin Devernja wrote several letters against me to Bishop Hrizostom and others.

"Metropolitan Damaskin told me privately that there also exists a complaint from 'some' attorney, probably that of the late Silaski. That complaint would be exactly 15 years old. No one ever sent it to me for reply! Concerning this same complaint, the present Patriarch when he was here in 1951 as secretary of the Holy Synod, told me that they threw it in the waste basket. Fine, why didn't they send it to me for reply in its own time? Actually I do not know officially who is accusing me and why he is accusing me! Why then does the Holy Assembly of Bishops and Synod punish me? My answer is UNDER PRESSURE OF THE REGIME! Because if they wanted to, they had plenty of time to canonically and legally investigate and examine all charges, and then to render a judgment.

"2. The Patriarchal delegation last year also received some 'charges' against me from priests who are enrolled in the political organization 'Zbor,' then again from these and others enrolled in the Priest's Association at their assembly in South Bend, Indiana. In 1958, Momchilo Djuijich wrote me that he condemns the Jordanville Missionary, as well as those who are terribly throwing mud at me. He at that time praised me as the very best Serbian Bishop, while in 1962 he began an attack, most likely from some personal motivations. In one of his letters of December 8, 1949, he attacked the priest Glocar and said that he, Glocar, 'is pulling a red furrow in his parish.' Now he began to defend him together with some priests from 'ZBOR,' although he attacked terribly the same year!

"At one of our enclosed meetings of March 5, 1961, he openly attacked Patriarch German, how 'he completely placed himself in the service of the communistic regime and systematically destroying our Church in the fatherland,' seeking that a struggle be opened against the Patriarch, 'in order to stand in the way of this evil.' I defended His Holiness the Patriarch. I was joined in the same spirit by Dr. Milan Gavrilovich, so that the struggle against the Patriarch did not begin from our midst. That does not prevent Momchilo Djuijich now from photographing the Synodal epistle for these people and from circulating it among the people against me, together with the members of the movement ZBOR. It is known, for example, that a leaflet was written in the home of a prominent member of the ZBOR against me which was signed by Dr. Purich! The Delegation of our Church believed him and some of the priests, received their complaints against me, and now, on the basis of those slanders, you, brother Bishops of the fatherland, have condemned me—without a hearing!

I sought from the Delegation a report on what did any of the priests write or submit against me, but that was not given to me for examination.

"3. The Patriarchal delegation submitted its report to the Assembly. I have submitted mine. I send a copy of my report to members of the Delegation prior to the Assembly. Metropolitan Damaskin did not make a single remark about my report, while Bishop Nikanor, when I asked him: How long can the Holy Assembly of Bishops defend me from the regime, he remained silent, but when he received my report he wrote me that it does not correspond to the truth that I asked him this. But how much they both spoke against communism and the regime, to me and to everyone, can be proven and confirmed. The Report of the Delegation is therefore one-sided, inaccurate and does not correspond to the truth. On the basis of that report I am deprived of a Diocese, suspended and judged. I categorically seek a copy of that report that we can compare it here with my report, to see which is accurate, which one can be believed and which one not. Up to now I was an official member of the Assembly, so I seek this and have a right to this as a member of the Holy Assembly of Bishops.

"How is it that the Holy Synod held all those 'numerous charges' against me for years in its desk-drawers, and now has discovered, according to article 219 of the Constitution, that by my life and work I scandalize the people, but before it did not want to see if this was so, but now, after so many years? Only now is my life and work 'scandalizing to the people,' as stated in the mentioned article of the Constitution?! But this will be correct, that my work is now more dangerous for the communistic regime, because I became more active in that field. And the Holy Synod

knows well as I have also told the Delegation, to send to me all those complaints for a lawful reply, to not prejudicate the penalty which would eventually be placed upon Bishop Dionisije, if the complaints be false and cannot be proven. (sic!) Why did the Holy Synod and Assembly conceal my accusers?

"4. On the basis of article 220 of the Constitution of the Patriarchate, which speaks of material abuses, I am deprived of a Diocese, and an administrator is appointed as for a vacant—widowed Diocese. Neither the Patriarchate nor the Delegation sought any kind of report concerning the mentioned abuses from the Diocesan Auditing Board or Council of this Diocese, or from me or from any official body of the Diocese. It simply received those submissions 'as well as done' and suspended me from episcopal duties! Those slanders extend way back from 1951 when Momchilo Djujich refused to come to the consecration of Shadeland, for he says that Bishop Dionisije committed great material embezzlements. Those embezzlements were spoken of also at the assembly of priests in South Bend last November in the presence of the Delegation. Metropolitan Damaskin was in America last year for almost three months, and he had the time if he wished, to verify at least this complaint. He didn't do this, but with his false report recommended that I be relieved of my Diocese! What would be his next step? To recommend me for defrocking, for it seems, this too is my great sin, that I am publishing my defense in precisely the same manner as the Holy Synod published its judgment upon me! The Holy Synod came out in public with its decision, so it is right that Bishop Dionisije also comes out in public with his defense.

"The mentioned article of the Constitution states, that it is first necessary to evaluate the veracity of the sub-

mission, to ascertain and investigate the matter, to hear the accused, even to send him a transcription of the submission for a written explanation, and afterwards to render its decision. The Holy Synod did not do this, neither did the Holy Assembly of Bishops, nor anyone of the competent authorities! But according to that saying: we must execute him, we must find a fault in him, because his work, his national political work 'hinders us in the land,' as was stated in Paris and in New York by the secretary of the Delegation Protodeacon Brana Petrovich! Why does it hinder them? Communism is pressuring them because of me. The communists do not like this what I am doing against them and they wish to suffocate it. I understand this, and this is precisely why I cannot accept these decisions, which are unjust, unlawful and uncanonical.

"Your Holiness, brother Bishops, be convinced that over us there are two judgments: God's and the people's. Both will overtake you. By this which you have decided you have disturbed this peaceful and good people of the Serbian colonies, congregations, societies and organizations. You shall also cause the splitting of our Church and the splitting within this very Diocese. Know that you have made it possible for Tito's regime to take a footstep in this Diocese. Tito now gains and Saint Sava loses. But I shall remain together with the entire patriotic Serbdom on the line of struggle against communism. Splitting shall ensue also in the remaining parts of the Church in Diaspora. You shall see for yourselves how many people will remain with the present Patriarchate! This Diocese is not splitting away; it will not allow for you to force it under Tito's control. As for Me, however, may the merciful Lord be merciful, and I repeat, LET HIS HOLY WILL BE DONE, AND LET THERE BE PRAISE TO GOD FOR ALL.

Humble obedient one
SERBIAN ORTHODOX AMERICAN-CANADIAN
BISHOP DIONISIJE"

The Holy Synod of Bishops of the
Serbian Orthodox Church, Belgrade
Yugoslavia

—which is hereby sent to you for the sake of information with the recommendation that you acquaint your flock, the church membership and all patriotic Serbdom concerning this.

with blessings,
Serbian Orthodox American-Canadian
BISHOP s/ +Dionisije

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 77

BISHOP DIONISIJE:

FOR CHURCH RIGHTS OF THE FREE SERBIAN EMIGRATION AND AMERICAN-CANADIAN SERBDOM—Legitimacy of the Serbian Orthodox American-Canadian Diocese—

OUR PROPOSALS TO THE HOLY ASSEMBLY OF BISHOPS

The PLENUM, and that means all Diocesan Committees —held its Special meeting on June 6th of this year, at which, by reason of the decisions concerning the Division of the Diocese and my suspension as Bishop of this Diocese, it rendered the following decisions:

"1. The PLENUM of the Serbian Orthodox American-Canadian Diocese /after the decisions of the Holy Assembly of Bishops and Synod were read/ states, that it is not competent either to receive nor to reject the question of the division of the American-Canadian Diocese into three dioceses, and therefore the entire subject is transmitted to the Church-National Assembly, which because of the urgency of the matter, is summoned for the 6th, 7th and 8th of August, 1963, in St. Sava Monastery in Libertyville, and in accordance with the Rules and conclusions of the last Church-National Assembly held in the month of September of 1960. This decision was unanimously adopted.

"2. To direct to the Holy Synod a letter with the most fervent request that a Synodal investigating commission be sent as soon as possible at the expense of the accuser, which will immediately investigate and conclude, the question of charges against our Bishop His Grace Dionisije, since according to the above decision no changes in administration of the Diocese can be carried out until a decision is made by the scheduled Church-National Assembly. All present voted for this point /36/ except two."

I opened the meeting and announced that there are only two points on the agenda:

a—THE DIVISION OF THE DIOCESE INTO THREE, RECEIVING THE ADMINISTRATOR OF THE SAME AS WAS DESIGNATED BY THE HOLY ASSEMBLY OF BISHOPS, and

b—THE RECEPTION OF H.M. THE KING ON JULY 4th AT ST. SAVA MONASTERY.

Archpriest Miodrag Mijatovich immediately made a sharp comment concerning who presides over the meeting. He sought that the presiding be immediately turned over to the appointed administrator Archimandrite Firmillian Ockoljich, who, although he was in the building, did not even want to attend the meeting at which I was presiding. I replied that I have not surrendered the duties, and that I have the right to preside, but because these Decisions from Belgrade are related to me personally, I will turn over the presiding to the first vice-president of the Diocesan Council Mr. Svetozar Maravich, who accepted it and then turned over the presiding to Dr. Uros Seferovich, the second vice-president of the Diocesan Council.

Our legal advisor, attorney Mr. Nicholas Stepanovich, having been asked how is it according to law, replied that in cases similar to ours, according to article 138 of the Constitution of the Patriarchate, since this regulation does not appear in our Diocesan Constitution, the duty of presiding at meetings of the Diocesan Council is the duty of the vice-president of the Council, which was done, therefore Archimandrite Firmillian, who has not yet received the duties of administrator, cannot even preside.

The legal advisor of the Diocese then explained the legitimacy of this Diocese, and that for it was made its own Constitution which gives it the right to independently order and administer its affairs, property and work in ac-

cordance with church laws and the laws of the countries of America and Canada (Art. 2, 3 and others). As long as this Constitution is not legally changed, this Diocese cannot submit to other decisions, and changes to this Constitution can be made only by our Church-National Assembly, and then they are submitted to higher church authorities for approval. The Constitution of 1927 and the Constitution of 1939 was adopted in such a manner. For this Diocese our "Church-national Assembly is the main legislative and controlling body."

The DECISIONS of the Holy Assembly of Bishops were then read concerning the division of this Diocese into three separate Dioceses. The first part of that decision states: "The Holy Assembly of Bishops of the Serbian Orthodox Church at its meeting of May 10, 1963, under Holy Assembly No. 20 and 21/Min. 77, rendered this decision: upon the request of the Church-National Assembly of the American-Canadian Diocese and the American-Canadian Bishop No. 115, of February 13, 1962, and number 127, of May 25, 1962, that in consideration of the largeness and territorial expanse of the Diocese it is necessary to elect more bishops for this territory, the Holy Assembly of Bishops, on the basis of article 16 of the Constitution of the Serbian Orthodox Church, establishes from the heretofore American-Canadian Diocese three dioceses" . . .

I sought the floor and explained that the Holy Assembly of Bishops has inaccurately cited and quoted the mentioned acts of this Diocese. Because neither by its act of number 115, February 13, 1962 nor by act number 127 of May 25, 1962, did this Diocese seek at all the division of our Diocese into three separate ones. Our act no. 115 relates only to the revision of the Constitution of this Diocese, in which it is stated, as a reply to a question of the Holy Synod of Bishops, that the Constitution be revised, and after this all

will be sent to Belgrade, and that this will probably be brought by our Diocesan delegation. This delegation did not come to pass, because the Holy Synod did not wish to receive the delegation without me. In the mentioned act is the warning that THE AUTONOMY AND RIGHTS OF THIS PEOPLE MUST BE TAKEN INTO ACCOUNT, THAT THE PEOPLE MUST BE ASKED AND CONSULTED CONCERNING THE ELECTION OF THEIR FUTURE BISHOPS, AND THAT THIS IS THE GOLDEN MEAN, WHICH WILL SATISFY BOTH THE RIGHTS OF THE HOLY ASSEMBLY OF BISHOPS AND THE RIGHTS OF THIS PEOPLE. If the Holy Assembly of Bishops adopts this view, then it will assure that this people will never separate or break away from our Patriarchate.

Act no. 127 of this Diocese of May 25, 1962, was a formal proposal of our Church-National Assembly concerning the elevation of this Diocese to the rank of METROPOLITANATE and the election of two-three auxiliary bishops-vicars for one and undivided Diocese. In the same act it was sought that the territory of South America and Africa be annexed to this Diocese. In that act I stated that the question be resolved at first in principle, and later, as to who shall be the Metropolitan and his auxiliary bishops, will be decided by agreement with these people. I have said that I personally do not pretend to that position of Metropolitan, unless this is wanted by this people and if this be desired by the Holy Assembly of Bishops. And at the end of this lengthy act I said that by this compromise decision the desires and needs of this people would be satisfied, who bear upon themselves the entire burden of church life, who support their Bishop, priests, churches, schools and preserve the Serbian heritage of St. Sava.

Since the Holy Assembly of Bishops of 1962 did not give any consideration to these proposals, but sent a Delegation to America, I withdrew all those proposals and said that I will never again propose anything in that direction; then the Holy Assembly of Bishops and the Patriarch will see for themselves what they are doing, and to what that politics of theirs will lead, for not only not giving this people some greater rights, but are taking from them even these rights which this people has according to the letter of their Constitution and the laws of these lands in which they live.

DICTATE OF THE COMMUNISTIC REGIME

The misquoting of both of our acts mentioned on the part of the Holy Assembly of Bishops in Belgrade clearly indicates that the Holy Assembly of Bishops was not free in the rendering of the above decision. Had it been free, it would not have twisted the content of our proposals and would not have mentioned that which was not sought from here. The Assembly would have simply accepted them favorably or rejected them, as it has done before. Who could have ordered this? Only Tito's communistic regime which has made a devilish plan for the division of this Diocese and for my removal from duties as Bishop of the Diocese. Tito's regime called this plan "OPERATION DIONISIJE."

These two facts testify that this is correct: 1. according to certain reports from Belgrade, from the ranks of the episcopate, it was learned that Tito's regime ordered the Patriarch, and clerks of the UDBA visited every Bishop with orders from the regime that Bishop Dionisije must at all costs be removed, because he hinders them—the communists. The Patriarch himself told this to some of the bishops loyal to him. However, when some bishops rebelled and protested, the head of the religious commission, Moma Markovich, told them verbatim: "Do you not see the reality,

that we change bishops even in America and that we shall most assuredly punish mercilessly here everyone's anti-people's work." When they again rebelled and did not desire Archpriest Lastavica as a Bishop, the Patriarch himself then told them: "Beware that the fate of Dionisije doesn't befall you!" The second fact is, that this internal tearing apart of the Diocese in no way and manner serves the interests of the Church, neither of our Patriarchate nor here in a foreign land. Whom and what could three weak dioceses help, when they cannot even support themselves financially?! The Holy Assembly of Bishops, in which 20 educated men sit, is not so naive that it cannot see this and not comprehend. It knows that this Diocese can only if strong help its Church in the old country, as was even expressed by Metropolitan Damaskin. Then whom does this serve? Only Tito's regime, to weaken and break apart the Serbian emigration, to weaken and break apart this only free Serbian Diocese, and to infiltrate in her midst, in her life. The nationalistic minuses are great for those who from here are pushing that question, that communistic vehicle, that communistic plan. Set aside the blind hate against me by the members of Ljotic's "zbor," or of Djujich, or even of Tito's authorities and their agents, but what's the matter with the clergy from the Priests Association? Those priests have forgotten that they are God's servants and of these people, that our people built for them nice parish homes, have given them decent and good salaries, respect and value them as their spiritual leaders and teachers (it is true however that the priests have worked and endeavor as much and as best they can) but in this question those priests are not cooperating with their people, do not defend their rights! That is why our people will have their word to say concerning these their priests who do not defend their rights! Those priests seek

blind obedience to the Holy Synod of Bishops and the Patriarch, which in other words means subordination of this Diocese to Tito's influence. And I charge all such as they before the Serbian public and the entire Serbian patriotic emigration. They impute to me the separation and breaking away from the Patriarchate, as if though I am doing that, while they by their work are forcing this people to revolt against the Serbian Patriarch and the Holy Assembly of Bishops! Who then is creating a schism? They and Belgrade! This people desires to preserve its Diocese whole and progressive and that it remain in unity with its Patriarchate, but they are breaking it with their proposals to Belgrade, by telephone conversations, leaflets and submissions of every kind.

Because of both of these influences the Holy Assembly of Bishops violated even article 16 of its own Constitution, because the decision of reorganization, division and creation of three dioceses was not rendered together with the Patriarchal Council, which should also have in it a representative of this Diocese, but who was never invited nor sought from this Diocese.

Even though Metropolitan Damaskin declared to us that the Constitution in these circumstances must not and cannot be changed, the Holy Assembly of Bishops violated that and abolished the Diocese of Budimlje-Polim, then wrote off five Serbian dioceses in the South and transferred them to the "Macedonian Church," again in accordance with the dictates of the regime. And now by that same dictate is also rending this Diocese and leading into it a Trojan horse —communistic influence and dictates.

When Archpriest Milan Brkich informed me, while he was last year yet in Belgrade, that our Patriarch thinks that this Diocese be divided into several independent dioceses, I replied that this cannot be accepted, that I do not adopt

it, and that I am sure that our people would not accept it either. Our Patriarch is informed of this.

Finally I stated at the meeting of the Plenum, that this Diocese was an organic part of our Patriarchate, is not bound by Tito's communistic laws and regulations which relate to the Church. If we were bound by the laws of the Kingdom of Yugoslavia, these of Tito do not bind us.

SURRENDERING OF THE DUTIES

Again at the meeting of the Plenum the question of surrendering my duties arose. Archimandrite Firmilian stated that he came to receive the duties as Administrator of the Diocese, because he was so ordered by the Holy Synod of Bishops from Belgrade. Archpriest Mijatovich and he, who took the viewpoint, stated: the question of division of the Diocese is second, but the primary, the main thing, is that Bishop Dionisije here today surrenders the duty because he is removed and as such can no longer administer the Diocese. He needs to surrender the duty to the appointed administrator Archimandrite Firmilian. The presiding officer asked me: Do I wish to surrender the duty? I stood and read the following statement:

1. I do not recognize the judgment upon me of the Holy Assembly and Synod of Bishops, which is unlawful, because it violates the Constitution of the Serbian Orthodox Church, article 111, which states: "THE HOLY ASSEMBLY OF BISHOPS CAN REMOVE A DIOCESAN BISHOP FROM ADMINISTRATION ONLY AFTER CANONICAL JUDGEMENT, OR RELIEVE HIM UPON PROVEN DISABILITY . . . AS ALSO ON THE BASIS OF A PETITION FOR RETIREMENT." I am removed from the Diocese without any kind of meeting, without any investigation, without any canonical judgment

and verdict, which is in violation of article 218 of the Constitution of the Patriarchate, as also article 67 of the Penal code of the Serbian Orthodox Church.

2. I will not surrender the duties of administering the Diocese until those unlawful divisions are not [sic] rescinded, and then until regular canonical investigating procedures are instituted against me, that I can be given a prior hearing, that I reply to those "charges," and only then, if I be found guilty, let me also be sentenced. If our Church-National Assembly also finds me guilty, I will submit to such a judgment. But I shall defend my rights also as a citizen of my free new homeland America."

Following this Archimandrite Firmilian spoke that the Holy Assembly of Bishops should be obeyed and asked me directly to surrender the duties to him. I replied that even the Holy Assembly of Bishops cannot be obeyed when it itself violates laws, and I as a member of the Assembly have that right to tell them. Then I stated that I will not surrender the duties. Archimandrite Firmilian then stated that he can no longer consider me his Bishop, to which I replied to him, when such is the case, he is no longer our Episcopal surrogate. He then left the meeting. In agreement with Archimandrite Firmilian were Archpriest Milan Brkich, Archpriest Miodrag Mijatovich, and Archpriest Miodrag Djurich. They all submitted their resignations and left the meeting. Only two other members of the Plenum agreed with them, whereas the overwhelming majority rendered the second part of its decision which is stated above.

The same evening in Gary, Indiana, in the residence of the priest Petakovich, were gathered: Archimandrite Firmilian, Archpriest Milan Brkich, Archpriest Miodrag Mijatovich, Archpriest Miodrag Djurich, the chetnik vojvoda Momchilo Djujich, and a few other civilians, for a conference for further action and struggle. Meanwhile we learned that the two new administrators, Archimandrite Gregory Udicki, and the newly elected Bishop Archpriest Stevan Lastavica were already beginning to issue their orders and directions to the clergy, that my name no longer be mentioned in church at services, and that for all their needs they turn only to them, and not here to the Diocese at the St. Sava Monastery. By this they heap a tremendous damage to this Diocese and they do not recognize the decisions of our Diocesan Plenum!

It was likewise learned that upon orders from Archpriest Stevan Lastavica, as a future Bishop, Archpriest Dushan Klipa, the Episcopal Vicar-gen. for the East, summoned an assembly of clergy from his district, of the "Mideastern American-Canadian Diocese" in Clairton, Pa., for Tuesday, the 18th of this month, at which will preside the newly designated bishop Archpriest Lastavica. I have informed that I do not recognize this assembly.

At the same time I relieved from further duties both episcopal Vicar-generals: Archpriest Milan Brkich and Archpriest Dusan Klipa. They are no longer my Episcopal Vicar-generals, nor vicar-generals of our districts of this Diocese as they are determined, and should the new administrators give them any authority, I do not recognize it until the decision of our Church National Assembly as was decided by the Diocesan Plenum on the 6th of this month. The resignations as members of the Diocesan Council of Archpriest Miodrag Mijatovich and Archpriest Miodrag Djurich were accepted.

Since the Priests Association led the struggle against me personally, and worked and works for my removal, and bears a great part of the responsibility for all these disturbances among the people, I have withdrawn my recognition of the "Priests' Association," which I have given in

1960, and call upon all the patriotic clergy to resign from that Association which drew this Diocese into these tremors and pulled it into complete subordination to Belgrade, taking from it even this autonomy which it had until now. This Association does not defend the rights of its people but of Belgrade.

I call upon the entire Serbian clergy and all Church-school congregations to not obey the directives of these new administrators: Archimandrite Firmilian, Archimandrite Gregory Udicki, nor of Archpriest Stevan Lastavica, but rather for all their needs and questions turn to our Diocese, the Diocesan office and to Us, who together with the Diocesan Executive Board and the Church Court administer this diocese. It is the general feeling and decision of the overwhelming majority of our people that the Serbian Orthodox American-Canadian Diocese remain whole and undivided.

American and Canadian Serbdom, as also Serbdom of the entire Serbian Emigration and Diaspora, and you too, my dear Serbdom in communistically oppressed Yugoslavia, the time has come here for us to regroup, to firmly stand for the principles of freedom, for the principles of the glorious struggle of General Drazha, for the King, for the Constitution of America and Canada (sic), that we be more firmly tied and more unified than ever to continue our struggle against communism, against Tito and his dictatorial regime in Yugoslavia, all for the freedom of our dear Serbian people. I shall remain in the name of God on my heretofore line.

In the Monastery of St. Sava, Libertyville, Illinois
June 12, 1963.

(translator's certification omitted)

PLAINTIFF'S EXHIBIT 78

Translation

BISHOP DIONISIJE:

NEW DELEGATION FROM BELGRADE

-investigation commission-

The Holy Episcopal Synod by its act No. 1987, min. 267, of June 13, 1963, has informed us that by authorization of the Holy Episcopal Synod, His Holiness, the Patriarch German, will take over administration of the three newly created dioceses until the ordination for bishop of Very Rev. Stevan Lastavica, who will after ordination take over this administration.

From this act is evident that the Holy Episcopal Synod has changed its decision, and that administrators of these three newly created dioceses are not neither Archmandrite Firmilain, nor Archmandrite Udicki, nor Very Rev. Stevan Lastavica. It means that people should not turn to them for instructions and orders. It means that for everything should be turned to His Holiness the Patriarch in Belgrade.

Together with this, the Holy Episcopal Synod sent us act number 1986, min. 265, of June 13, 1963, by which informs us that will come to America Bishop Chrysostom, Bishop Visarion, with Very Rev. Mladenovich and protodeacon Tripkovich, for investigation of complaints against me, Bishop Dionisije, for hearing, fathering documents e t.c. Privately I am informed that this delegation arrives these days, if they are not here already, and that main purpose is to ordain Very Rev. Stvan Lastavica for Bishop. They have received passports, enough traveling expenses, beside tickets, from the state, in order to perform their job in accordance with instructions given by Religious Commission.

Informing of this all America and Canadian Serbs, that:

1. This delegation—Investigation Commission is not a guest of this Diocase. The Commission comes upon the

request of the Diocesan Plenum, but at the expense of plaintiffs. Because of this, Diocese, clergy and church congregations are not obliged to receive them. These Bishops have no right to go and visit within our Diocese for church services, collecting money and similar. Let our congregations and clergy act accordingly. This delegation will be guest neither in monastery of St. Sava in Libertyville, nor in Shadeland.

2. When this Investigating Commission calls on me for the purpose of conversations, hearings e t.c. I will use all legal rights as a Bishop and as a citizen of this country.

3. Since the Diocesan Plenum, in its session of June 6, of this year, did not accept division of the Diocese, but left it to the Church-People's Assembly, and since it has decided that surrender of duty to the administrator cannot be done nor to the new Bishop, I cannot surrender the duty until Church-People's Assembly takes place, and up to the judgment of this people, namely until this unjustified judgment on me is not discussed in legal and regular manner.

It is according all legal rules that I get all complaints for legal answer. Until all these are not given to me for reply, I cannot go to any hearings or conversation with this Commission. When I give all my responds in written form, I am going to use the right to take defending attorney. Until that, I will use my right to have a contact with this Commission through the correspondance.

In monastery of St. Sava,
On Vidovdan, 1963.

That this photocopy is exact with its original, which is deposited in the archive of the Holy Episcopal Synod,

Certified by,
May 28, 1969 Supreme Secretary of the
Belgrade Holy Episcopal Synod,
(Seal) Very Rev. Mladen Mladenovich.

PLAINTIFFS' EXHIBIT 79

BISHOP DIONISIJE:

AMERICAN CANADIAN SERBIAN CHURCH TRIUMVIRATE

After certain rebellions, conspiracies and murders in Rome, the power was taken over by three men, called triumvirate. When triune: Tito, Djujich and Ljotich's Zbor stroke together against me, it appeared decision of the Holy Bishops' Council, on order of Tito, Serbian Church Triumvirate: Firmilian, Udicki and Lastavica, to govern divided Diocese, to put through communist "Operation Dionisije" in America, and through them subjugate this free part of the Serbian Church to the communist regime in Yugoslavia.

Undermining the Constitution of this Diocese, not submitting to the decisions of Diocesan Plenum, this Triumvirate, after one conference where the main speaker was Djujich, they composed a special epistle to all clergy and people of this Diocese, calling all and everybody to submit themselves to the unlawful decisions of the Holy Bishops' Council, calling for help on St. Sava and all Serbian saints that they bless Serbs, but forgot to mention pledge entrusted for keeping to St. Sava, and ask him: what means his recommendation to fight for holy Orthodox Faith and freedom of its people. They forgot that St. Sava, in his protest, left his country when his brother First-Crowned King turned to Rome, and that he returned back only when the First-Crowned King has repented, for revolt was among the people. This triumvirate forgot that the Church did not always obey their Patriarchs, especially when they have fallen into heresy. Taking these duties, this triumvirate has opened the gates to the Tito's penetration into the Serbian Church in America. Look, Archimandrite

Firmilian already has in Pittsburgh a priest, who helps him and substitutes him, Fr. Velickovich, who publicly has talked in New York: that prota Smiljanich in Yugoslavia is the best Serbian priest. The Serbs in Pittsburgh should know this.

Triumvirate immediately has looked at Diocesan properties: Monastery of St. Sava, Shadeland and Jackson. At once they started with issuing orders, sending inspections to Shadeland, asking to be turned over to them etc. Together with some priests, this triumvirate brought decision in Clairton not to recognize decisions of our Diocesan Plenum made in session of June 6 of this year, nor decisions for calling the Church-People's Assembly, asking the people not to come to this Assembly, until new dioceses are formed, that all diocesan bodies are not acting and that they cannot bring legally any decisions. By this action, triumvirate, backed by a few priests, has released all diocesan bodies, and, according to them, no one governs the Diocese anymore. What insanity. No one so far did dare to attack the rights of this Diocese and Church, as did this triumvirate and Zbor-Djujich-Tito's team. And so they decided that Church-People's Assembly should not be held, for it is not convoked legally, but it was called in legally by the decision of Diocesan Plenum of February of this year, before all these Tito's intrigues, and at present only the date was changed from one to another, from October to August, in order to resolve the crises in our Church. It is evident, that these gentlemen are afraid of the Church-People's Assembly, and they try to avoid it. But, with God's help, this Church-People's Assembly will be held on fixed date.

Let's analyze this triumvirate's epistle. FIRST, triumvirate declared that all positive laws and Rules of the Serbian Orthodox Church and Constitution of this Diocese

remain untouched. But how the Constitution of this Diocese remain untouched when all present church bodies are inactive, that even Assembly is not called for, which practically means: all diocesan church bodies are abolished: Ecclesiastical Court, Diocesan Council, Diocesan Controlling Board, Educational Board etc. Who then governs in this Diocese, and who is its legal representative. According to Diocesan Constitution, it is Diocesan Council, but according to the decision of triumvirate, it is not, but they three, whom this people did not accept yet, nor anybody surrendered duty. Look, how much far this dictate has gone. It is better to call this triumvirate commissariat. Now, American and Canadian Serbs, do you want this commissariat or not, it is up to you!

SECOND, triumvirate calls for preservation of *unity* in our holy Church. How to preserve this unity when this triumvirate with certain number of the clergy is for obedience to Belgrade, Bishops' Assembly, Synod and Patriarch, but these have recognized the creation of MACEDONIAN CHURCH, which is the most dreadful schism and division in the Serbian Orthodox Church and Serbian people, which means in essence transforming the Serbs into Macedonians in the historical Serbian provinces of Emperor Dusan. Anybody who has done this is a traitor of Serbian people. For such a big question, it is not only necessary to go to jail, but to death. For Tito has accepted the Moscow plan of creation of Macedonia, which would, according to Vancha Mihailov, Moscow agent, comprise all territory from Vranje to Salonika. Through this Macedonia Moscow would come out to Aegean Sea, since it cannot do it through Dardanelle. For this reason it was necessary to create Macedonian nation, Macedonian church, Macedonian culture and a new step to the independent state of Macedonia, which means nothing for communists since

Macedonia is in the communist family of states and nations. But for the Serbs it means very much, and the Serbian people cannot ever accept it.

Acknowledging everything that is ordered from Belgrade, our triumvirate, acknowledges Macedonian church too. Now our triumvirate acknowledges the division of this Diocese and imposing of this to the free Serbian people of all orders and decisions from Tito's Yugoslavia, mixing of state and Church from Yugoslavia into the rights of this people, which is protected by free American and Canadian laws. Who is creating schism? Not us, but above mentioned team.

The concept CHURCH UNITY is wrongly explained. There is a spiritual and canonical unity, as it is among all Orthodox churches, unity in faith, keeping mutual holy canons of Ecumenical and provincial assemblies. A national church unity, as it was unity of Serbian Church among four independent metropolitanates; Belgrade, Karlovci, Sarajevo and Montenegro. All of them being Serbs had St. Sava and all Serbian saints as their spiritual leaders, all of them kept all Serbian traditions, history, culture, although they are administratively divided. That is real unity of the Serbian Church and Serbian people. Also exists administrative unity, when according holy canons, each Orthodox church within one nation and one state are tied in mutual administration: it has one chief—the Patriarch or Metropolitan and one internal legislature, the Constitution. This Diocese was not administratively subject of subordination in everything to our Patriarchate, but according its Constitution, has its own autonomy. Therefore there is no division here in our Church and separation in spiritual nor in canonical sense. That unity must be preserved. Here exists administrative division of one part of our people, who came and settled in other states, who live according to laws

of those states. No one has a right to ask this people to be subordinated to Belgrade, when we know that there is governed by Tito's communist laws, and Tito's regime presses our Mother Church, and in more important cases dictates.

Epistle of triumvirate mentions article seven of the Constitution of our Patriarchate, that the same remains untouched, and Constitution of this Diocese. But article seven enumerates on the basis of what laws Serbian church is governed, and on the end, under point D, says: "On the basis of regulations, rules and principal decisions of competent church authorities." Those are regulations, rules and decisions which last for some time, which, as Patriarch himself said before the Executive Board of Priests Association in Belgrade, when he received them in February of this year, that decisions and orders of the Holy Bishops' Assembly and Holy Synod, are not unchangeable dogmas, that the same could be wrong, and that the same can be changed. One of these decisions is the one relating to this Diocese and injustice done to me.

THIRD; epistle of the triumvirate says, that later after division of this Diocese, church life will be formed, according to the newly created situation, and then bring up a new Constitution for this part. This means that they want first after realizing division of this Diocese, to establish themselves—this triumvirate or new bishops, and then to call Church-People's Assembly, elect diocesan bodies, but only in complete subordination to Belgrade. It means that this freedom-loving people will not be asked of anything but to say "amen" to what is ordered. This stand of the triumvirate and group of priests are provoking this people who built their churches, founded their organizations and fought to preserve Serbianism, to resist and defend its rights and to reject this attack on their freedom.

FOURTH: Epistle of triumvirate calls on all congregations that they correspond with them in the future, to stop contact with Diocese, to send money and dues through administrator for "Midwest Diocese" which does not exist yet. They, by this action bring confusion in our congregations and among clergy, and start with the SCHISM in this Diocese. They also intimidate all the priests who do not submit to them, that they will be disordained. With this action this triumvirate creates terrible damage and they will be brought to civil courts, for they do not have a right to it. Because of this all church congregations are called to send their debts and obligations toward our Diocese, regularly, and sent it to the address: Monastery of St. Sava, Libertyville, Illinois.

FIFTH: American Serbian church triumvirate at the end of their epistle says: that they will fight against communist interference in the matters of this Diocese, that they are against communism etc. How laughing this sounds, for:

1. Communist plan is to interfere in the matters of this Diocese, and through these commissars—triumvirate, enter into the life of this Diocese. Beyond these new bishops are priests pro-Tito inclined, as is the one who is at present with Archimandrite Firmilian, who is his substitute in Pittsburgh. Beyond priests who would replace patriotic Serbian priests, come instructors from Yugoslavia, from Tito's consulates, trained in their schools. Recently Tito's consul in San Francisco has offered his help in conducting camp in Jackson, his books and leaflets.

2. Tito's Embassy in Washington said to one of our priests from Washington that all should be for these administrators, for Archimandrite Firmilian, who will be a bishop and probably even Metropolitan, and Dionisije must go and that must be done.

3. Tito's consul in Chicago has said to several men, that Rev. Petakovich should stay in Gary by all means.

4. Tito's consul in Toronto has given word that all priests, who are against division of the Diocese will be defrocked and replaced by others from Yugoslavia.

5. Tito's consul in Pittsburgh used all his might for Very Rev. Emilian Glocar to keep him in Akron, and return to his old parish there. He was meeting with prota Glocar many times and spoke through telephone a number of times.

6. Directive was given that King should not be received as it should. For this reason the priest of Chicago, Dusan Popovich, has resigned as president of the Committee for King's welcome, and said that he will receive the King, even in the church, if he comes in my company—with Bishop Dionisije. So said Executive Board in Milwaukee with proto Milan Brkich.

7. With this directive, yesterday the Chetnik's Voyvoda Djujich, renounced the King over the radio hour. The only thing remains for him to recognize Tito.

AT THE END OF THIS CIRCULAR I APPEAL TO ALL AMERICAN AND CANADIAN SERBS TO RISE AGAINST ALL THOSE PRIESTS WHO ARE NOT DEFENDING INTERESTS OF THEIR PEOPLE, AND WHO VOLUNTARILY IN THIS MANNER SUBMIT THEMSELVES, consciously or unconsciously, TO TITO'S COMMUNIST LINE OF DESTROYING EVEN THIS FREE SERBIAN ORTHODOX DIOCESE!

I CALL ALL THE SERBS IN THE WORLD, TO STAND WITH ME TOGETHER IN THIS HOLY AND ST. SAVA'S NATIONAL STRUGGLE.

I ACCEPT UNDER PROTECTION OF THIS DIOCESE ALL CHURCH CONGREGATIONS FROM THE WHOLE WORLD, WHO DO NOT WANT TO SUBMIT

TO BELGRADE, AND TO THE TITO'S DECISIONS THROUGH PATRIARCH GERMAN AND HIS UNLAWFUL DECISIONS OF THE HOLY BISHOPS' ASSEMBLY.

The blessed memory, Patriarch Gavrilo, gave to me all Serbian church diaspora (Serbs living outside Yugoslavia) in the whole world, to organize them, which I have done with the help of the Episcopal church. Governing in all churches and church centers in all world, was taken away by Patriarch Vikenty, under pressure of communist regime, and at present, Patriarch German, under order of regime is destroying even this American-Canadian Diocese.

Our slogan is: FOR THE FREE ST. SAVA'S ORTHODOX CHURCH, FOR KING, AND FOR IDEALS OF GLORIOUS STRUGGLE OF GENERAL DRAZHA MIHAILOVICH.

At Serbian Orthodox Monastery of St. Sava,
Libertyville, Illinois,
On VIDOVDAN, 1963.

That this is exact copy (photo copy) of the document which it refers to, and which is in safe-keeping in the archives of the Holy Episcopal Synod,

CONFIRMED BY,
Supreme Secretary of the
Holy Episcopal Synod,
Very Rev. Mladen Mladenovich
(signed)

May 28, 1969 (Seal)
Belgrade

PLAINTIFF'S EXHIBIT 80

Phone EMpire 2-9826

SERBIAN EASTERN ORTHODOX DIOCESE
FOR THE UNITED STATES OF AMERICA
AND CANADA
Serbian St. Sava Monastery
Libertyville, Ill.
U.S.A.

June 7, 1963

Very Reverend Archimandrite
Dr. Firmilian Ocokoljich, pastor
Pittsburgh, Pa.

Very Reverend Father Archimandrite,

Yesterday with great sorrow we have realized, that you took the stand of the movement of those elements: Djujich, Zbor and a group of clergymen, who are the subordination at any price of this Diocese and this free Serbians to His Holiness the Patriarch and the Holy Assembly of Bisops in Yugoslavia, even when they brake the Constitution of the Serbian Orthodox Church as well as our Diocesan Constitution, which in another words means to the communist regime in Yugoslavia, since without their participation and dictate no major decicionour Church in Yugoslavia can make, what you yourself know.

Furthermore, yesterday you publicly before the whole Plenum stated: that you are no longer recognise me as your bishop, since I was not able to surrender to you the administration of the Diocese until our Diocesan church-people assembly. Prior to that, you did not want to come to the meeting, because I have opened the same and began to preside which later was given to vice presidents of the Diocesan Council, as it was provided by the Constitution of the Serbian Orthodox Church.

In connection with this, since I yet perform the duty of the Diocesan Bishop and together with Diocesan bodies I govern the American Canadian Diocese, we said to you, and with this we confirm: that you are no longer our Episcopal Deputy (and which we confirm) and we releive you from that duty according to & 13 13 of the Constitution of our Diocese. By this you are automatically releived from the membership in the Ecclesiastical Court and Diocesan Council of this Diocese, about which we inform you for your knowledge.

With blessings
Serbian Orthodox
American Canadian Bishop
+ Dionisije

That this photocopy is faithful to its original which represents and which is kept in the archives of the Holy Synod of Bishops is

Certified by
Supreme Secretary
of the Holy Synod of Bishops
Mladen Mladenovic
Archpriest

May 28. 1969
Beograd SEAL

PLAINTIFFS' EXHIBIT 81

Phone EMpire 2-9826
SERBIAN EASTERN ORTHODOX DIOCESE
FOR THE
UNITED STATES OF AMERICA AND CANADA
SERBIAN ST. SAVA MONASTERY
LIBERTYVILLE, ILL.
U.S.A.

Very Reverend
Miodrag Mijatovich and
Miodrag Djurich, members of the Diocesan Council

June 7, 1963

Very Reverend Fathers protopresbyters,

At yesterday's meeting of the Diocesan Plenum, not agreeing with the decisions of the majority of the Plenum, and especially with the fact, that we were not in position to surrender the duties of administration of the Diocese, since you agreed with stand of Very Reverend Archimandrite Firmilian, you resigned on the membership in the Diocesan Council. Your resignation is accepted, and this was entered into the minutes of the Plenum, and consequently you are no longer members of this Diocesan body, about which you are informed.

With blessings
Serbian Orthodox
American Canadian Bishop
+Dionisije

That this photocopy is faithful to its original which it represents and which is kept in the archives of the Holy Synod of Bishops is

Certified by
Supreme Secretary
of the Holy Synod of Bishops
Mladen Mladenovich
Archpriest

May 28, 1969
Belgrade SEAL

PLAINTIFF'S EXHIBIT 82

Minutes taken on the basis of decision of the Holy Synod of Bishops No.1986/min.265 of June 13 of this year in some inn near Libertyville July 5, 1963.

His Grace Bishop Dionisije was requested to undertake the fulfillment of the above decision and to reply to the posed questions. His Grace answered that he will not reply to any oral question, but desires that all questions be submitted in writing that he might reply to them in writing. At the same time His Grace stated that he does not accept the decision concerning the division of the Diocese into three parts and that he does not consider himself as bishop of the MidWest American Diocese and that he stands by all of his circulars and statements which he made before and after receiving of Assembly's and Synod's decisions.

With this the meeting ended.

His Grace Bishop Dionisije stated, even though he participated in composing this minutes, that he will not sign the minutes.

July 5, 1963

Bishop
Bishop of Branicevo
HRIZOSTOM
Bishop of Banat
+ VISARION

That this transcription is faithful to its original which it represents and which is kept in the archives of the Holy Synod of Bishops is

Certified by
Supreme Secretary
of the Holy Synod of Bishops
Mladen Mladenovich
Archpriest

PLAINTIFFS' EXHIBIT 84

PATRIARCH GERMAN'S
VIOLATIONS
of the
Holy Canons, Rules and Regulations
of the
Serbian Orthodox Church in Tito's Yugoslavia
PREPARED
by the Rt. Rev. Bishop Dionisije
Published by
The Serbian Orthodox Diocese in the U. S. A. and
Canada (Free Serbian Orthodox Church in Free World)
LIBERTYVILLE
1965

* * *

RESOLUTION
of the Sixth Diocesan Church National
Assembly Held in 1948

Delegates of the Sixth Church National Assembly, clergy and laymen, assembled in their Serbian Monastery of Saint Sava in Libertyville, Illinois, having great love for their Church and the Serbian people, unanimously brought the following resolution:

(1) Considering that the compactness and unity of the Serbian Orthodox Church are essential for the future of the Serbian people, the Sixth Church National Assembly appeals to all Serbian Bishops, Priests and all the leaders of the Serbian people to contribute as much as possible to preserve this unity, and particularly appeals to all Serbian brothers and sisters in America to contribute to this great goal, either personally or through their National Serbian Organizations.

(2) Finding that the co-operation of the three big Serbian organizations, that is: the Serbian Orthodox Diocese, the Serbian National Federation and the Serbian National Defense, has without doubt brought, and today brings prosperous results, the Sixth Church National Assembly appeals to all Orthodox Serbs in the United States and Canada to become members of these organizations, and by this way to show their religious and national feeling and also readiness to defend their own interests and those of the Serbian people in general.

(3) Aware of the historic role of the American Serbs in the present action for full aid to the Serbian people, the Sixth National Assembly recommends to all clergy, members of the Church-School congregations and all the faithful of our Holy St. Sava Church in the United States, to help the Serbian National Defense in her present fight, conducted by all conscious Serbs, towards the freedom and unity of the Serbian people.

In connection with this goal, the Sixth Church National Assembly advises all members of St. Sava's Church in America, and abroad, to help the work of the Serbian Central National Committee in America, the aim of which is to unify all positive powers in the struggle for the defense of the interests and freedom of the Serbian people.

(4) As it is now possible for a large number of Serbian emigrants to enter the United States, people to whom we should offer our hospitality as to our brothers, and to help them find all facilities, to begin a new life in our community, the Sixth Church National Assembly appeals to all our Serbian organizations and institutions in America to secure for them lodgings and employments, and then immediately inform the committee for the maintenance and welfare of Refugees, in which there are representatives of our three organizations, and our main office, situated in our Diocese in Libertyville, Illinois.

(5) As communism with its atheistic doctrine endangers not only Christ's teaching, but ethic and moral also, endangering the life of a family and mankind in general, disregarding personal and national freedom and justice, and as such is a permanent danger to all deeds done for mankind by Christian civilization and because of which the Serbian people feel and suffer the worst deprivations, the Sixth Church National Assembly calls all faithful, armed with belief in Christ and love for Serbdom and Serbian traditions, to fight with all their sources against this greatest of misfortunes which has occurred in the world.

(6) In accordance with the report of delegates from Canada, regarding the church and national needs of our people there, this Assembly finds necessary for appointment of a Deputy Bishop for Canada. The Deputy will carry out the work following instructions from the Bishop and the Diocesan Council of the Diocese of America and Canada.

(7) The Sixth Church National Assembly authorizes His Grace Bishop that his co-ordinance with this Diocesan Council he may bring the necessary decisions:

(a) Regarding parish schools, necessary manuals, etc.
(b) The organizing of youth within the Church,
(c) Improvements to the Monastery,
(d) Development of the summer children's camps,
(e) The publishing of a newspaper of Diocesan monthly bulletin,
(f) A home for aged priests and charity home for disabled Serbs,
(g) A theological seminary, courses for Church singers, parish School teachers etc., and
(h) Sources for maintaining of the Diocese.

RESOLUTION
of the Seventh Church National Assembly of October 1952

The delegates of the Seventh Church National Assembly have decided unanimously:

(1) The Serbian Orthodox Diocese of America and Canada will offer in the future, as it has to date, loyal co-operation with the United States of America and Canada in view of their democratic Constitutions, wishing to preserve the freedom granted by these Constitutions, the prosperity of both countries and the rights of Christian democracies existing there.

(2) The Serbian Orthodox Diocese of America and Canada will in future, as it has to the present, remain canonically affiliated with its Serbian Orthodox Patriarchate and Church, preserving the unity and spiritual closeness of the Serbian people. The Diocese alertly follows events in the Old Country and the relationship between the present state regime and the Church. *The Church National Assembly unanimously condemns the suppression of religious education and the attacks on the Serbian Bishops and Priests, and declares: that the Diocese will refuse any unauthorized and uncanonic attempt to interfere into the autonomous life of this Diocese, particularly if such an attempt would come as a result of pressure by the present communist regime in Yugoslavia.* The Church National Assembly also declares that in the event of canonic vacancy of the present Diocesan throne, paragraph 13 of the Diocesan Constitution be brought into effect, under the condition: *that the Assembly retains its right in such circumstances and newly created situations, bringing decisions in ordinance with the canonic regulation, coming in contact with the Holy Bishops' Synod and His Holiness the Serbian Patriarch, on the basis of American Constitution.*

(3) The Serbian Orthodox Diocese of America and Canada will in the future sincerely co-operate with the Serbian National Federation, Serbian National Defense, the Federation of Unity, Serbian Singing Federation, Federation of Serbian Sisters of the Serbian Monastery of St. Sava, the Serbian Brothers Help, all other National American-Canadian organizations, and all other Serbian organizations in the world which have the same aim and program: the well-being of the Serbian people, protection of their interests, its unity and unity of the Serbian Orthodox Church as well as autonomy of this Diocese.

(4) Most important for the Serbian Orthodox people is their unity, which is entrusted to the Holy Church. Therefore this Assembly appeals to all Serbian Orthodox people in emigration—closing their rows and unify, and for all the leaders to cooperate with one another because discord helps only the enemies of the Serbs. In the meantime *this Assembly warns all Serbs to avoid all communistic and atheistic ideology and propaganda.*

(5) The Assembly recommends that particular attention be given to Serbian youth, recommending that all Church-School congregations where no Church School exists, found them, also, along side of the parish schools; that for both of these there be printed special manuals and lectures, and this should be put in the charge of the Diocesan Council and Education department; that apart of religion the Serbian language be taught in the parish schools; that there be printed for the faithful liturgical prayer-books along with other spiritual and educational books, thus to enable them to follow the Holy Liturgy, and to enable the priests to bring more youth into the Church.

(6) That special consideration be made for the maintenance of old and disabled Serbs and invalids, and for

this aim to be opened *a St. Sava Charity Home in Pennsylvania*, which will accept the old settlers along with newly arrived brothers. The Diocesan Council is authorized to make special regulations for the maintenance of this institution.

(7) The Diocesan Church National Assembly appeals to all American-Canadian Serbs, all Serbs in the Free World, and all our National organizations to offer all moral and material aid to better the life of our old and disabled Serbs and invalids who are still in various European camps, hospitals and institutions.

(8) The Diocesan Church National Assembly condemns the action and behavior shown towards the Episcopate by a portion of the Serbian priests and clergy, organized in a new clerical association as this Assembly believes, that they are fulfilling the desire of the communist regime in Yugoslavia.

(9) Condemns the action "Macedonian Church Initiative Committee" as an uncanonical and illegal association, and particularly the tendency of this committee to create some independent Macedonian Orthodox Church outside the Serbian Patriarchate, to whom all dioceses and all Serbian Orthodox people in Yugoslavia canonically belong.

(10) The Seventh Diocesan Church National Assembly has decided that the Serbian Orthodox Diocese of America and Canada will, in the future, offer all moral and financial help to all Serbian emigration outside America and Canada who are under the jurisdiction of the Serbian Patriarchate and our spiritual care.

(11) The Seventh Diocesan Church National Assembly urgently and staunchly demands of the American Government and court that Andrija Artukovich, former minister for interior affairs in the so-called 'independent State of Croatia' be deported and delivered to the authorities con-

cerned for crimes which he executed to imprison and to kill: the Metropolitan of Sarajevo, Petar, Bishop of Karlovatz, Sava, the Bishop of Banja Luka, Platon, as well as several hundred Serbian priests and hundreds of thousands of Orthodox Serbs.

(12) The Diocesan Seventh Church National Assembly thanks our ever-loving God for all the good deeds granted our Diocese and her faithful, and prays to the Lord for the salvation of His martyred people and His long-suffering Serbian Orthodox Church.

AMEN.

The Holy Bishops' Synod of the Serbian Orthodox Church, under its number of 1532/Min 483 of June 16th, 1953, write to us:

"Your Grace,

The Holy Bishops' Assembly of the Serbian Orthodox Church at its session of May 29th, 1953, under ASNo-24/Min. 46 issued this decision:

To accept to the knowledge report of His Grace Bishop Dionisije regarding work of Church-National Assembly of the American and Canadian Diocese."

We have the honor to notify Your Grace about this decision of The Holy Bishops' Assembly (Council).

Your Brother in Christ
For the president of The Holy Bishops'
Synod, Metropolitan of Montenegro
and See Shores
ARSENIJE, S.R.
TO HIS GRACE AMERICAN AND CANADIAN
BISHOP DIONISIJE.

According that document the Holy Bishops' Assembly accepted my report about the work and Resolution of the diocesan Church-National Assembly held in October 1952.

RESOLUTION
of the Eighth Diocesan Church National Assembly
Held on September 18, 19, and 20th, 1956

Inspired by the ideal of Saint Sava of preservation of Orthodox belief and all that which the Serbian people hold as most dear and holy, the Eighth Diocesan Church National Assembly holds firmly to the stand of preserving the unity and entirety of the Serbian Orthodox Church and its people. Therefore, in accordance with the Constitutions of the Serbian Patriarchate and of the Diocese of America and Canada, this Diocese stands in Canonic and Spiritual unity with the Serbian Patriarchate in Yugoslavia, as does our Bishop with His Holiness the Serbian Patriarchate in Belgrade.

In accordance with suggestions and proposals given by His Grace, the Diocesan Bishop, Rt. Rev. Bishop Dionisije, and taking into consideration existing needs and those which may arise in the near or distant future, and after hearing the report of the Executive Board—which is in accordance with the Diocesan Constitution—the Assembly has decided:

(1) *That in regard to the position, wishes and requests of our brother Serbs who live in regions of Middle and South America, His Holiness Patriarch Vikentije should temporarily transfer administration of these territories to His Grace the American Canadian Bishop Dionisije, in regard to the Serbian Orthodox faithful and Church-School communities, until such time the Holy Bishops' Assembly decides to affiliate these lands to this Diocese.*

(2) *This Assembly warmly recommends and asks His Grace the Diocesan Bishop to transmit the following to His Holiness the Patriarch and the Holy Bishops' Assembly:*

That the entire flock and clergy of this Diocese is of firm standing: that in case of vacancy of the Diocesan Throne, they have the exclusive right to call a special meeting of the Church National Assembly, on which they will recommend three candidates, from which the Holy Bishops' Assembly may elect one as new Bishop of this Diocese. At the same time the Assembly announces that any disrespecting or neglection of this demand, which is the right of the people of this Diocese, by the Holy Bishops' Assembly, could raise the question of the unity of this Diocese with the mother church in the Homeland.

That the unity and harmony of Serbian emigration in the world, and its prosperity in spiritual, church and nationalistic outlook are the axiom of the activity of the American-Canadian Diocese. Therefore the Serbian Orthodox American-Canadian Diocese cooperates and shall cooperate with the Serbian National Federation, the Serbian National Defense and all other sincere national Serbian organizations in America and Canada and in all other countries where Serbs there are; helps and will help all Serbian emigrants in the world religiously, spiritually and nationally, so that they may become better stabilized and strengthened in order to preserve their St. Sava Orthodox faith. *The Eighth Diocesan Church National Assembly gives full support to His Grace Bishop Dionisije in the matter of establishing and extending in Serbian emigration a solid Serbian representation for better and stronger defense of the interests of the Serbian Orthodox Church and the Serbian people in the freedom fight which is led by our new homeland, unconquered America.*

The Eighth Diocesan Church National Assembly protests against the pressures which the godless communistic regime exercises over the Serbian Orthodox Church in Yugoslavia

and requests: that South Serbia should be permitted free and undisturbed election of Orthodox Bishops for the Dioceses of Skoplje, Orchrid-Bitola and Zletovo-Strumitza; that the Montenegro Metropolitan Arsenije should be freed as well as all Serbian priests and monks, who are imprisoned and sentenced only because they—here and there—spoke somewhat freely about communistic dictatorship; that all confiscated church buildings, patriarchates, dioceses, monasteries and churches be returned to the Serbian Orthodox Church in good order; that in Sremski Karlovtzi the theological seminary be re-opened and that all liberties and rights which were forcibly and unjustly taken by Tito's communist regime be returned to the Serbian Orthodox Church.

The Eighth Church National Assembly has decided that from the Holy Bishops' Assembly there be requested two vicar-Bishops to the Diocesan Bishop for this Diocese, since it is impossible for him to carry out all Bishop's affairs on the enormous territory of this continent. Therefore the Eighth Diocesan Church National Assembly supports the candidacy and proposal from His Grace Bishop Dionisije for Doctor Archimandrite Firmilian Ocokoljich, now secretary to the Bishop and the Diocese, as Bishop's vicar. At the same time the Eighth Diocesan Church National Assembly has decided to take steps in regard to bring Bishop Varnava Nastich to America, either as a guest or for his convalescence, but nevertheless for permanent residence.

The Eighth Diocesan Church National Assembly decided that in the future, more priests for this diocese be selected from youth born here, and also that following completion of university, the youth be schooled or educated in their own seminary; but that, until this seminary is opened, all our future priest-candidates be educated at St. Vladimir's Academy in New York, where there is one of our professors,

who, in addition to the regular subjects, will teach them history of the Serbian Orthodox Church, the Serbian language, history of the Serbian people, church chanting as well as other subjects needed for parish service.

The Eighth Diocesan Church National Assembly decides to establish a Monastery in Canada as a separate Serbian spiritual centre; that a church be erected on the Diocesan property at Shadeland, Pennsylvania, for the St. Sava Charity Home and that a Serbian Women's Monastery be established at Shadeland. The Diocese shall extend full cooperation in the future, as it has to the present, with the Federation of Serbian Sisters of St. Sava Monastery and especially hopes that a Serbian Orphanage be established near them, since need for this is felt.

The Eighth Diocesan Church National Assembly acknowledges fully and thanks the Serbian National Federation for the help it has shown and is showing to its Holy Orthodox Church in every regard, and especially for the fact that the Serbian National Federation takes responsibility for payment of Diocesan mortgages in amount of 32,500 dollars for the property of Shadeland, and of which amount they have already paid 25,000 dollars. The Assembly appeals to all clergy and Church-School Congregations to cooperate very closely with the Serbian National Federation and to support all of its cultural and benevolent undertakings.

MINUTES

of the 9th Church-Peoples Assembly of the American-Canadian Diocese held September 13, 14, 15, 1960

Work of the 9th Church-Peoples Assembly of the American-Canadian Diocese began September 13, at 10:00 A.M., with prayers and a special service in the St. Sava Monastery Church in Libertyville, Illinois. At 10:30 A.M., the

clergy, led by His Grace Bishop Dionisije, and accompanied by those delegates present, left the church and in prayerful recollections approached the grave of the blessed-in-repose Bishop Nikolai, held a memorial service for him as well as for the departed Brothers-in-Christ: His Grace Bishops Mardarije and Irinej. At 11:00 A.M., in the hall of the Children's Camp Building, His Grace Bishop Dionisije opened the first meeting of the Church-People's Assembly with a prayer and blessing. His Grace, with friendly and chosen words, greeted all present delegates and expressed the hope that their work at the Assembly be inspired with the ideals of orthodoxy and Serbian interests.

. . . (p. 4) . . . His Grace Bishop Dionisije spoke of the relationship of the American-Canadian Diocese with the Serbian Orthodox Church in the Old Country. Life in the American Canadian Diocese demands certain reforms and new measures. New reforms and new decisions pertaining to our internal church life must be sent, in accordance with our Constitution, for approval to the Holy Bishops' Council in Belgrade. But we have had instances that the Holy Bishops' Council did not sanction our new decisions, sent regarding amendments and additions to our Constitution. Bishop Dionisije proposed that this Church-People's Assembly should decide that all new amendments and additions of our Constitution which pertain to the internal life of this Diocese (Questions of administration) additions *which do not enter into questions of our canons and our orthodox Dogma, that such additions and amendments be carried out in the life of the Diocese and that they not be sent for approval of the Holy Bishops' Council in Belgrade. Very Rev. Dusan Shoukletovich seconded Bishop Dionisije's proposal.* Tika Topalovich asks the Assembly to decide today that the Church-People's Assembly of the American-Canadian Diocese assumes the right to select its own new

bishops because here are found nationalistic interests. His Grace replies to Tika Topalovich and says that would mean breaking spiritual ties with the Serbian Orthodox Church and that we should never do, nor would we under any circumstances wish to do so. *Spiritual ties with our Church in our Homeland must be preserved.* Vojvoda Momchilo Djujich agrees with Bishop Dionisije and says that we must preserve spiritual unity and must not throw stones at our Mother Church because she did not cast us off nor sin against us. He pleads with all brother delegates to contain themselves against attacks against our Mother Church in our enslaved homeland. Especially is it necessary to repel lies against the Patriarch, the episcopate and the honorable Serbian clergy. They are martyrs and they should be helped and not hindered. Vojvoda entertains a protest against all our politicians and emigrant publications writing against our Patriarch, our bishops and clergy in the Homeland. All who write against our church and its leaders are misinformed and ill-willed. . . . Very Rev. Milorod Dobrota and Milos Bajesbich spoke on the same subject.

Very Rev. Miodrag Djurich asks how to protect properties of the American-Canadian Diocese from the communists, because we are a component part of the Serbian Orthodox Church and as such, property the same. Communists would not find it difficult to force our church in our Homeland to allow them to come in control of our properties. The bishop replies that there are laws regarding this and that no one can ever take our property from us.

Resolution of 9th Church National Assembly held in 1960.

. . . (p. 9) . . . After listening, suggestions and explanations of the Diocesan Bishop, His Grace, Dionisije, taking into consideration existing needs as well as those likely to arise in the immediate as well as in the distant future, and

after hearing the report of the Assembly's committee for changes of rules and regulations pertaining to the Diocesan constitution the Assembly decided:

That the unity and harmony of Serbian emigration in the world and its prosperity in spiritual, Church and nationalistic outlook are the axiom of the activity of the American-Canadian Diocese. Because of that the Serbian Orthodox American-Canadian Diocese cooperates and shall cooperate with the Serbian National Federation, the Serbian National Defense and all other sincere national Serbian organizations in America and Canada and in all other countries where Serbs are there; helps and will help all Serbian emigrants in the world religiously, spiritually and nationalistically to become better stabilized and strengthened so that they may preserve their St. Sava orthodox faith.

Aware of the people's historical struggles, which were led by the Serbian Orthodox Church through the centuries for freedom of the Serbian people, and imbued with the sincere desire for Serbian harmony in a free world, the 9th Diocesan Church-People's Assembly, composed of legitimate representatives of *Serbian Orthodox Churches in America and Canada, priests and laymen, graciously thanked His Grace Bishop Dionisije on his positive, preserving and successful work in unifying conflicting forces in Serbian emigration.* The Assembly saluted and successfully completed work of the All-Serbian Congress which elected Serbian national representation as a permanent and supreme political body of nationalistic Serbs in the free world whose duty it is to unify all conflicting, nationalistic and democratic Serbian forces in the struggle against godless communism, for early freedom and unity of all Serbs and Serbian lands. *The 9th Diocesan Church-People's Assembly protests against the pressures which the godless communis-*

tic regime exercises over the Serbian Orthodox Church in Yugoslavia and requests that all Serbian priests and monks, who are imprisoned and sentenced only because they—here and there—spoke somewhat freely about communistic dictatorship; that all confiscated church buildings: patriarchates, dioceses, monasteries and churches be returned to the Serbian Orthodox Church in good order.

The 9th Diocesan Church-People's Assembly decided, that for the future, more priests for this Diocese be selected from youth born here, also that following completion of the university, the youth be schooled in their own seminary. But that until the seminary is opened, that our future priest-candidates be educated at St. Vladimir's Academy in New York, where there are two of our professors, who, in addition to their regular subjects, will teach them history of the Serbian Orthodox Church, the Serbian language, history of the Serbian people, church chanting as well as other subjects needed for parish service.

The 9th Diocesan Church-People's Assembly decided that a church be erected on the Diocesan property at Shadeland, Pennsylvania, for the St. Sava Charity Home and that a Serbian Women's Monastery be established at Shadeland. The Diocese shall extend full cooperation in the future, as it has to the present, to the Federation of Circles of Serbian Sisters of St. Sava Monastery and especially [hopes] that a Serbian Orphanage be established near them, for which the need is felt.

The 9th Diocesan Church-People's Assembly acknowledges fully and thanks the Serb National Federation for help it has shown, and is showing, to its holy orthodox church in every regard. The Assembly appeals to all the clergy and all church-school congregations to cooperate very closely with the Serb National Federation and to support all its cultural and benevolent undertakings.

President, 9th Diocesan Church-People's Assembly
Bishop Dionisije

The resolution was unanimously adopted.

Amendments adopted

. . . (p. 10) . . . Very Reverend Milan Brkich presented report of the Committee for Revisions and Amendments of the Diocesan Constitution stating: that the Committee believes a general revision of the Constitution is necessary as soon as possible and that that work should be entrusted to a special commission of professional theologians and lawyers. The Committee is of the opinion that at this Church-People's Assembly the following paragraphs must be revised and amended because they are of an urgent nature:

Regarding Diocesan Bishop

Art. 9 of the Diocesan Constitution should read:

The Bishop of the Serbian Orthodox Diocese for the United States of America and Canada is chosen by the Holy Bishops' Council of the Serbian Orthodox Church after consideration of the thinking and proposals of the Church-People's Assembly of this Diocese.

Art. 13 . . . to read:

The Diocesan Bishop of this Diocese has his own Diocesan representative, whom he himself chooses and also prescribes his sphere of duties. When the Diocesan throne is vacated, temporary administration of the Diocese in all spiritual and administrative duties are assumed by the Diocesan Church Court with the Diocesan Plenum, that is, the Diocesan Executive Board, about what informs His Holiness the Serbian Patriarch. Until the election of a new bishop the Bishop's administration of this Diocese is performed by the Serbian Patriarch together with the Holy Bishops' Council through the Diocesan Church Court and the Diocesan Council.

Upon vacancy of Diocesan throne, the Diocesan Plenum is obligated to call an extraordinary session of the Diocesan Church-People's Assembly, which, in the spirit of paragraph 9, presents its decisions and proposals to the Holy Bishops' Council pertaining to the selection of a new bishop for this Diocese.

Regarding Diocesan Church-People's Assembly

Art. 16 . . . to read:

The Diocesan Church-People's Assembly is composed of:

1. Diocesan Bishop,
2. All members of the Diocesan Plenum (all Council Boards, Monastery Boards, Church Court, Auditing Board, Educational Board, the Federation of Circle of Serbian Sisters and Sotaja);
3. All Serbian orthodox priests, clergymen of this Diocese;
4. Two lay delegates representing each Church-school congregation of this Diocese, except president who, by virtue of his position as president of his church-school congregation, is a member of the Assembly. These two lay-delegates are chosen from the ranks of the church-school congregation and two alternates in the event either of the two duly elected are for some reason unable to attend the Church-People's Assembly. Church-School Congregations not fulfilling their obligations toward the Diocese do not have the right to participate in the Church-People's Assembly;
5. All Church-School Congregations, which as yet do not have a priest and a church but do have a school operated under Diocesan control, have the right to send two delegates, one of which should be an authorized teacher of the school;
6. Of the Serbian nationalistic and benevolent organizations the following have a right to participate in the

Church-People's Assembly with the right to vote: Serb National Federation with 5 delegates; Serbian National Defense Council of America with 5 delegates; Serbian Benevolent Federation "Jedinstvo" with 3 delegates; Federation of Circles of Serbian Sisters with 5 delegates; Serbian Singing Federation 5 delegates; both Serbian National Defense Councils of Canada with 2 delegates each; and Serbian Brothers Help with two delegates.

Art. 20 . . . should read:

The Diocesan Church-People's Assembly will convene every other year in regular session in the month of September on days and in place agreed upon by the Bishop and the Diocesan Council.

When exceptional needs make it necessary an extraordinary session of the Diocesan Church-People's Assembly may be called; same to be called by the Diocesan Bishop that is by the Diocesan Plenum.

Art. 23 . . . should read:

The Diocesan Church-People's Assembly, following report of its Verifications and Credentials Board, and establishment of its constitutionality, performs the following business:

1. Approves, revises or amends agenda by Diocesan Council;
2. Accepts reports of Diocesan Plenum, excepting Church Court, on work of the Diocese for the past two years;
3. Makes decisions on material means for maintaining the Diocese;
4. Elects Diocesan Plenum except Church Court, for oncoming two years and formulates working program for Diocesan Plenum.
5. Elects Diocesan Auditing (Control) Board, which, as such, participated in the work of the Diocesan Plenum.

Through the Diocesan Auditing Board (are controlled in the management of all Diocesan property, budgets of the Diocesan Plenum—Executive, Educational and other Boards as well as all the funds of the Diocese).

6. Makes decisions on all questions, grievances and requests which arise for decision;
7. Makes decisions pertaining to revision and amendment of Diocesan Constitution, which are to be submitted for approval to the Holy Bishops' Council of the Serbian Patriarchate.

Art. 24 . . . should read:

The Diocesan Plenum is the main executive and administrative organ of the Diocese with its diocesan Bishop as president for all duties entrusted to him by the Diocesan Church-People's Assembly.

The Diocesan Plenum consists of:

1. Diocesan Executive Board
2. Diocesan Church Court
3. Diocesan Educational Board
4. Diocesan Auditing Board
5. Diocesan Boards for St. Sava Monastery (Libertyville, Illinois), Monastery of the Most Holy Mother of God (Shadeland, Pennsylvania), for the West and for Canada, and others when established.

By virtue of their positions the following are members of the Diocesan Plenum: Bishop's Administrator, Bishop's Representatives, Advisor of the Federation of Circles of Serbian Sisters, and directors of St. Sava Monastery and Monastery of the Most Holy Mother of God, and, when established, Diocesan centers from the West and Canada, then also their director (to which is also added the Monastery of Holy Protection at Buena, New Jersey).

Art. 25 . . . should read:

Diocesan Executive Board

The Diocesan Executive Board consists of 21 members, 10 priests and 10 civilians with the Diocesan Bishop at the head as President. In the Diocesan Executive Board there may be one or more Vice Presidents; chief Diocesan Treasurer; Chief Diocesan Financial Secretary (Accountant); Secretary of the Diocese; who is obligatory a priest chosen and appointed by Diocesan Bishops.

In addition to the regular members alternates are chosen: two priests and three laymen.

Art. 26 . . . should read:

Diocesan Auditing Board

The Diocesan Auditing Board consists of 9 persons, with a president as head, three members from the midwest vicariate; 2 from the Western vicariate; 2 from the Eastern vicariate; and two from Canada in order to make it easier to examine the books of the Diocesan Board. The Auditing Board examines all financial books and all business accounts of the Diocese, the Executive and all other Boards, Federation of Circles of Serbian Sisters and all funds of the Diocese, two times and at least one time annually. It gives a report of its work to the Diocesan Church-People's Assembly as well as to the Diocesan Plenum, with its recommendations.

Art. 27 . . . should read:

Diocesan Boards for St. Sava Monastery, Monastery of the Most Holy Mother of God, for N.J. and for Canada, each one are composed of 5 members of which one or two are Vice Presidents, one Treasurer, and a Secretary. President of each of these Boards is the Diocesan Bishop for whom the Vicar of the respective Vicariate may act as a substitute. The Bishop's representative (vicar) of the represented vicariate is obligated to be a member of the respective board as the Bishop's representative. Members of these Boards may also have their alternates, who are chosen by the advisory boards for the respective Vicariate.

In each Diocesan Vicariate, from representatives of all Church-School Congregations and priests, is formed, at a special assembly of the Vicariate, an Advisory Board with which the aforementioned Boards for the monasteries, for the West and for Canada, cooperate. These Boards meet once annually in the town or place which is headquarters for the Monasteries, for the West, and for Canada. It is a duty of these Advisory Boards to assist in the work and development of the Diocesan Centers.

Art. 37 . . .

Diocesan Education Board

The Diocesan Educational Board consists of 10 members, as follows: 5 priests and 5 civilians, with the Bishop as head. Vice President of the Diocesan Educational Board is the Diocesan educational referrant (advisor). The Diocesan Educational Board, in order to perform more successfully its work among the Serbian youth of America and Canada, may call on specially trained educators and from them formulate its own advisory committee.

The regular duties of the Education Board are: preparing teaching aids for parish Sunday Schools, preparing courses for children's summer camps, for camps for older children, for Youth Clubs and all pertaining to education and religious-moral matters in the Diocese. One member of the Diocesan Education Board is also a religious-education inspector (supervisor). This duty may be performed also by the Diocesan Vicars who also will cooperate in these matters with the Educational Board.

In cooperation with the Executive Board, the Diocesan Education Board is concerned with the publication of the Diocesan-Clergymen's journal 'Orthodoxy.'

Art. 36 of the Diocesan Constitution remains the same with the addition to that paragraph of Point 12, which reads:

Plenum of the Diocesan Council has the authority to propose budgets for main treasury, for the Educational Board as well as for the Monastery Board, Western, Canadian and Buena, New Jersey, and other Diocesan centers and missions which exist or which may be established.

The delegates of the Church National Assembly, after constructive discussion, approved these revisions and amendments of the Diocesan Constitution.

* * *

PLAINTIFFS' EXHIBIT 84B

TO: THE HOLY BISHOP'S SYNOD
OF THE SERBIAN ORTHODOX CHURCH
BELGRADE, YUGOSLAVIA

D. Protocol no. 194
June 3, 1963

YOUR HOLINESS,
BROTHERS, BISHOPS, MEMBERS OF THE
HOLY BISHOP'S SYNOD AND ASSEMBLY
ASKING BLESSING:

Acknowledging the receipt of the official document no. 1664/min. 188 of May 20, 1963, I declare: I DO NOT RECOGNIZE THE DECISION OF THE HOLY BISHOP'S ASSEMBLY AND SYNOD ABOUT DIVIDING THIS ONE DIOCESE INTO THREE NEW DIOCESES, NEITHER RECOGNIZING MY SUSPENSION AND DISCHARGE FROM MANAGING OF THE DIOCESE, nor will I give up my duty until the Diocesan Church-National Assembly makes its decision because they said your decisions were made against the Constitution and the Law.

I recognize, besides God's, certainly the competence of the Holy Bishop's Assembly and Synod when they comply with Holy Canons and legal rules. Also, I recognize the judgment of these people here to whom I am a most devoted and faithful servant for 23 years with all my power, knowledge and abilities. That is why I expect judgment of the people gathered on their Church-National Assembly. If the Assembly also sentences me, as you did, then I shall say as I always do—"O Lord, let Your sacred will be done," and I will give up my duty.

Why cannot I recognize the DECISION of the Holy Bishop's Assembly? Because of the same reasons that I mentioned in my Report of the Assembly in connection with the Patriarchate's Delegation. In my case, you brothers Bishops, broke the Constitution of the Patriarchate itself, paragraph 218 which says: *"Nobody could be (cannot be) punished by any church punishment without a previous questioning (hearing)."* And nobody heard me, nor asked me anything, nor sent me charges for my reply. At the same time, you broke also paragraph 67 of the Penal Code that you yourselves have recently made. Also, you broke paragraphs 219 and 220 of the Constitution of the Patriarchate. On the ground of the paragraph 219 you have put me under suspension of carrying out Bishop's duties; and on the basis of paragraph 220 you have discharged me—as a person who misused church property—you discharged me from bishop's position of this Diocese and took away from me the right to manage it. However, the facts are:

1) Several complaints started against me since 1943, especially from communistic cells of Americans and Canadians. My submitted report to the Diocesan Council in 1957 is the best evidence of that. You yourself know how many times the communistic regime required you to dis-

miss me, to punish me or at least to decrease my anti-communistic and national serbian activity. Some of the complaints originated within the period 1952-1957. Only one of them, yeromanach Arsenije Tosevic's, was given to me to reply. I gave my answer and it was filed. At that time, the leaders of the Serbian National Defense (Srpska Narodna Odbrana) under the presidency of Mihailo Ducic, was against me.

Some of the indictments were published, in the form of articles, the papers "Jedinstvo" ("Unity") in Chicago, especially in the column "Diocese or Anarchy." The editor of the column was Mr. Momcilo Djujic. In the same column some other persons took part, and I had to sue the said newspaper, the editor, participants and owner of the newspaper. In the indictment I mentioned Mitar Bulatovic, Savo Vujnovic, Luka Pejovic and his other assistants—Djujic and others. In the meantime, Mr. Luka Pejovic sued the Serbian National Federation (Srpski Narodni Savez), but he declared—if I withdrew my indictment against him—he would withdraw his against the Federation. Then Dr. Uros Seferovic intervened, and there was a correspondence with the Federation, so finally I withdrew my indictment for the sake of peace and unity in our immigration. But, they did not withdraw their indictments and reports addressed to the Holy Bishop's Synod against me! Said reports the Holy Synod has never sent to me for a reply. Also, there are private letters sent to some bishops and friends, by which I was accused. Metropolitan Damaskin himself told me that Mr. Milutin Devrnja wrote a couple of letters against me to Bishop Hrizostom and to others.

Metropolitan Damaskin privately told me that there is an accusation of a "certain" lawyer. Most likely, the late Silaski's. That indictment would be exactly 15 years old. Nobody ever sent it to me for a reply! In connection with

the same accusation, the present Patriarch himself, during his visit here in 1951 as a Secretary of the Holy Synod, told me that the accusation was thrown into a wastepaper basket. Well, why they did not send it to me for an answer in due time? As a matter of fact, I officially do not know who is accusing me and for what! Why have the Holy Bishops' Assembly and Synod punished me? My reply is—UNDER THE PRESSURE OF THE REGIME! Because, if they wished, they had plenty of time for a canonical and legal investigation and study of all complaints, and then to make a just decision.

2) The Patriarchate delegation last year received some "indictments" against me from the priests who were the members of the political organization "ZBOR." Then, from the same ones and some others—the members of the Priests' Association in South Bend, Indiana. In the year 1958, Momcilo Djujic wrote to me that he is condemning writing of the magazine "Jordanville Missionary" as well as those who are trying to spoil my reputation. At that time, he praised me as a best Serbian Bishop. In 1962 he started attack against me—certainly because of some personal reasons. By his letter dated Dec. 8, 1949, he attacked priest Glocar and said that he (Glocar) "draws a red furrow in his parish." Now, he begins to defend him, and is supported by some priests in "Zbor," even though he attacked them severely in 1958!

On one of our meetings (held on March 5, 1961) he openly attacked Patriarch Gherman who "*has completely accepted service to the communistic regime and systematically destroys our Church in the fatherland,*" demanding a struggle *against the Patriarch to commence "in order to stop the evil."* I defended his Holiness the Patriarch. I was supported also by Dr. Milan Gavrilovic and that is why a struggle against the Patriarch did not begin by us.

Now, it does not bother Djujic to copy the Synod Epistle to the people here and distribute it to the people against me, together with the members of the movement "Zbor." In a home of a well-known member of "Zbor," e.g., it is known, an insulting circular letter was written. It was signed by Dr. Puric against me! From him and from some priests the Delegation of our Patriarchate, it is believed, received some complaints against me; and now on the basis of these slanders, you, brothers the Bishops, sentenced me! I asked the Delegation to present to me a report; what and by which priest was something written against me, or reported, but nothing was given to me.

3) The Patriarchate Delegation submitted its report to the Assembly. I sent mine. Copies of the report I gave, before the Assembly, to the members of the Delegation. Metropolitan Damaskin made no objection to my report, and Bishop Nikanor of Backa—when I asked him: "*How long the Holy Bishop's Assembly could defend me from the regime?*" he did not say anything, but when he received my report, he wrote me that it is not true what I asked him. Everybody can confess how much they used to talk to me against the communists and the regime. The report of the Delegation is, accordingly, partial, untrue and not in compliance with the reality. On the basis of that report I have to lose my Diocese, I am suspended and sentenced! I categorically request to have a copy of that report to have it compared here with my report in order to see which is true, which one should be trusted and which one shouldn't. So far I have been an official member of the Assembly and accordingly I have right to request it as a member of the Holy Bishop's Assembly.

How is it possible that all the "numerous indictments" against me the Holy Bishop's Synod kept for years in its chest of drawers, and has found them now in conformity

with the paragraph 219 of the Constitution, that I in my life and work are causing scandal among the people—if there is any? You realize that now, after so many years? Now is my life and work "scandal to the people," as cited in the said paragraph of the Constitution? But, this is what is true: now my work is more dangerous for the communistic regime, because on the field of struggle I really have become more active. The Holy Bishop's Synod knows very well, as I told the Delegation, it should give me all the indictments for my legal reply, not to prejudge a sentence which eventually to put on Bishop Dionisije, even in case they are false and cannot be proved. Why were my accusers hidden by the Holy Bishop's Assembly and Synod?

4) On the basis of paragraph 220 of the Constitution of the Patriarchate, the paragraph that refers to the material misuses, you are taking my Diocese away from me, and for the "vacant" Diocese appoints an administrator! Neither the Patriarchate, nor the Delegation required any report concerning the misuses in question from the Diocesan Executive Committee or Council, or from me, or from any other official of the Diocese. They simply received the reports "for granted," and suspended me from the bishop's duty! These slanders originated in 1951 when Momcilo Djujic refused to come to consecration of Shadeland because, he said, Bishop Dionisije did considerable material misuses. The alleged misuses were discussed also at the meeting of the clergy in South Bend, Indiana, in front of the Delegation. Metropolitan Damaskin was in America almost for three months last year and he had time—if he wanted to—to see whether this indictment was true. He did not do that, but in his false report he suggested my dismissal from the Diocese! What would be his next move? To suggest suspension of my rank as Bishop because it must

be for them my great sin to publish my defense the same way as the Holy Synod published its sentence! The Holy Bishop's Synod informed the public about its decision. It was right that Bishop Dionisije also inform the public about his defense.

The mentioned paragraph of the Constitution says that it is necessary previously to examine the truthfulness of a report, and study the matter, hear the accused, even to send him a copy of an indictment for the purpose of a written explanation—and then to make a decision. The Holy Bishop's Synod did not do that; neither did the Holy Bishop's Assembly, nor did any of the competent factors. *Evidently, it was exactly an order: We have to eliminate him, we have to find him guilty, because his activity, national-political activity "bothers us in our country,"* as was said in Paris and New York by the Delegation's Secretary, protodeacon Brana Petrovic! Why does it bother them? The communists put a pressure on them because of me; the communists do not like what I am doing against them, and they are trying to destroy me. I understand that, and that is why I cannot accept these decisions which are unjust, illegal and uncanonical.

Your Holiness, brothers the Bishops, be sure that above you there are two courts: God's and people's. Both shall reach all of you. With your decisions you annoyed the peaceful and good people of Serbian colonies, communities, associations and organizations. *You shall also cause a split in our Church and one in this very Diocese, too. You know, you enabled Tito's regime to step into this Diocese. Tito wins now and St. Sava loses. But, together with all the patriotic Serbdom I will remain on the line of a struggle against communism. There shall take place split also in other parts of the Church—in diaspora. You shall see for yourselves how many of the people shall stay with the*

Patriarchate! This Diocese will not split, and will not allow you to push it under Tito's control. To me, however, let the merciful God be good and I repeat: LET HIS HOLY WILL PREVAIL AND GLORY TO GOD FOR EVERYTHING.

Peaceful Servant of God
American-Canadian Bishop
Dionisije

PLAINTIFFS' EXHIBIT 841

SERBIAN ORTHODOX DIOCESE
for the United States of America and Canada
Serbian Monastery of St. Sava
Libertyville, Ill.

February 13, 1962
No. 115

YOUR HOLINESS
DEAR BROTHERS IN CHRIST-BISHOPS
MEMBERS OF THE HOLY SYNOD
ASKING FOR YOUR BLESSING:

In connection with the letter of the Holy Bishop's Synod, No. 2676/Min.503 of September 13, 1961, we report:

It is true we are working to amend our Diocesan Constitution. A special committee, with its head of the Very Rev. Dusan Klipa, our Vicar-General, is entrusted to work on that problem. According to the decisions of our Church National Assemblies and in the meaning of the Constitution of the Diocese, the duty of this committee is to prepare and recommend all amendments of the Constitution of this Diocese.

The work of this Diocesan Committee is near to the end, and, when they finish all amendments and after their approval, all material will be sent to the Bishop's Council for final approval.

Because of the Church needs of our people on this continent, the opinion exists, and it is a decision of our Church National Assembly that this Diocese should be elevated to the rank of Metropoliya. In connection with our previous correspondence, this Metropoliya, besides a Metropolitan, should have two-three Vicar-Bishops—which means suffragans in America, or Vicars to us. In connection with this and in the spirit of our old Church laws, as well as the existing laws, it should be written in respect of our Church autonomy and the rights of these people, having in mind that it never may happen that the Serbian people may separate from its Patriarchate, but, at the same time to be consulted in regard to the election of its Bishops. A media must be found to satisfy the rights of the Holy Bishop's Council of our Church as well as of our people here. Our efforts are only in that direction.

To resolve that problem, it is most likely that this Spring our special delegation will arrive in Belgrade with all proposals and elaborate. The delegation has to come in connection with Brethren-Bishops of the Holy Bishop's Assembly, so that, after its return to the U.S.A., the delegation may explain to our people about the possibilities, and then recommend what has to be done.

Our view is that this delegation may invite Your Holiness to visit this Diocese next year and to be present at a special meeting of our Church National Diocesan Assembly (Sabor). During the stay of Your Holiness, here, you may visit all our bigger Church congregations and serve the Holy Liturgy blessing all the faithful of this Diocese. At the same time, some material help to our Patriarchate and its mission might be collected.

In hope that this explanation is sufficient in connection with the aforesaid question of the Holy Synod, I am, remaining in brotherly love in Christ,

American and Canadia Serbian
Bishop
Dionisije

To: The Holy Bishops' Synod
of the Serbian Orthodox Church
Belgrade, Yugoslavia

PLAINTIFFS' EXHIBIT 84L

THE HOLY SYNOD OF THE
SERBIAN ORTHODOX CHURCH
No. 1986/265
JUNE 13, 1963
BELGRADE

YOUR GRACE,

The Holy Bishop's Synod at its meeting under the above number and date issued the following decision:

"In connection with decision of the Holy Bishop's Synod Number 1664/188 of May 10th, 1963 by which a legal proceeding was started against His Grace Bishop Dionisije of Middle-Western American Diocese, the Holy Bishop's Synod is entrusted to His Grace Bishop Chysostom of Branchivo and His Grace Bishop Visarion of Banat to go to the U.S.A. and on the basis of Article 67 and 90 Church code procedure, examine all things, to fulfill necessary hearing of accused and witnesses as well as to collect proofs and to submit the findings, with all documents and report to the Holy Bishop's Synod for further procedure.

For accomplishment of this job to them are added, as helpers and technician, personnel, the very Rev. Mladen Mladenovich, Protodeacon, Secretary of the Holy Bishop's Synod and Bozidar Tripchevich, Secretary of Ecclesiastic Court of Belgrade-Karlovci Archdiocese.

We have the honor to notify you with a request to correspond to the invitation of their graces Bishop Chrysostom and Visarion for the hearing.

Your Graces in Christ,

For the President of the Holy Bishop's Synod
Member

Bishop of Timok
Emilijan

PLAINTIFFS' EXHIBIT 84S

TO: THE HOLY BISHOP'S SYNOD OF THE
SERBIAN EASTERN ORTHODOX CHURCH
BELGRADE, YUGOSLAVIA

November 18, 1963
Monastery of St. Sava
Libertyville, Illinois

YOUR HOLINESS,

This is to acknowledge receipt of the official document of the Holy Bishop's Synod no. 3215/min.509, dated Oct. 18, 1963, with attached INDICTMENT of the Church-Court Prosecutor, His Grace Bishop of Zica, Vasilije. This I received on November 3, 1963, and the official document itself arrived at the Libertyville post office on Oct. 31, 1963. The Indictment is written on a typewriter, on 38 typed pages.

As the material in question was quite abundant, and in accordance to God's and people's justice, it was necessary for me to know the details before my reply and before the day of hearing, and my answer to the Indictment, I kindly request the Holy Bishop's Synod:

1.—To allow me an extended term for my reply to 6 months (180 days), counting from Dec. 1, 1963.

The Rule of 19 of the Carthage Council, mentioned by the Holy Bishop's Synod, equally relates to the day of

hearing and the one of the trial, and the time of reply, at the same time foreseeing extension of the term as well. This rule supposes that an accused Bishop should be at least in the same state, on its territory. I do live in another state and on another continent.

The Serbian Eastern Orthodox Church Court Procedure, paragraph 109, foresees flexibility, moving of terms by the competent authority. I do not deny the competence of the Holy Bishop's Assembly and Synod in legal way. The Holy Bishop's Synod can—if wishes—to allow me the required term. Thus, the taking of my rank away from me as planned, could at least be covered by meeting of same legal requirement of accused Bishop Dionisije.

Besides, two weeks ago, I had a traffic accident (automobile crash) and my spine is hurt, and I have to get treatment. I have doctor's certificate to prove that, and also X-Rays, if you do not believe me. When I recover a little so I can walk a little better—and for purpose to prepare my defense I need to visit many places before I might give my detailed reply to the Indictment received.

2.—On the ground of my legal right, of paragraph 81 of the Old Rules for Courts as well as paragraph 67, item 4 of the new Rules (Procedure), I am requiring all the reports, complaints and denunciations to be sent to me copied and verified, all what is mentioned in the Indictment. The expenses of the copying I shall personally bear in conformity with the above paragraph of the Procedure.

I authorize three priests: V. Rev. Kosta Lukovic, Dusan Vasic and Milisav D. Protic to carry out the transcribing the material in question. Attached hereto please find my personal Power of Authority which you kindly hand over to them.

In case they refuse to do so, because of various reasons, I shall find somebody else to do so, and this can be ac-

complished in the Holy Bishop's Synod Office, provided that during the transcribing neither a line nor a word should be omitted. In case the Holy Bishop's Synod office performs the copying I shall bear all expense.

Truly
Bishop Dionisije

PLAINTIFFS' EXHIBIT 84T

November 18, 1963
Monastery of St. Sava
Libertyville, Ill.

POWER OF AUTHORITY

In connection with Indictment against me, signed by Bishop Vasilije of Zicha, I, the undersigned, am authorizing Very Reverends: Kosta Lukovich, Dushan Vasich and Milisav D. Protich, to transcribe-copy, all reports, charges and denunciations sent against me to the Holy Bishop's Synod. The authorized copies the Holy Bishop's Synod have to send to me, with the return receipt requested.

I am kindly asking the Holy Bishop's Synod to give at their disposal all material concerned for rewriting, which is mentioned in the Indictment. All expenses will be covered.

Serbian Orthodox Bishop
DIONISIJE

PLAINTIFF'S EXHIBIT 84Q

THE HOLY BISHOP'S SYNOD OF
THE SERBIAN EASTERN ORTHODOX
CHURCH
REF. NO. 2401/MIN.354
JULY 29, 1963, IN BELGRADE
TO: HIS GRACE BISHOP DIONISIJE
LIBERTYVILLE

YOUR GRACE,

The Holy Bishop's Assembly of the Serbian Eastern Orthodox Church, on its meeting held on July 27, 1963, ref. no. AC no. 42/min.2, has decided

"The Holy Bishop's Assembly of the Serbian Eastern Orthodox Church states that His Grace Bishop Dionisije Miliojevic broke his bishops oath and lost the conditions provided under paragraph 104, items A and G of the Constitution of the Serbian Eastern Orthodox Church, stipulated for position of diocesan bishop, and on the ground of paragraph 111 of the Constitution of the Serbian Eastern Orthodox Church; dismisses him from the duty of diocesan bishop, and the Mid-west American Diocese proclaims vacated."

We are honoured to notify your Grace about the above.
Your Grace brother in Christ

Serbian Patriarch
Gherman

PLAINTIFFS' EXHIBIT 84W

SERBIAN EASTERN ORTHODOX DIOCESE
FOR THE U.S.A. AND CANADA
SERBIAN ST. SAVA MONASTERY
LIBERTYVILLE, ILL., U.S.A.
JANUARY 25, 1964
D. PROTOCOL—OFFICIAL.

TO: THE HOLY BISHOPS' SYNOD
OF THE SERBIAN EASTERN
ORTHODOX CHURCH
BELGRADE, YUGOSLAVIA

It is being sent back to the Holy Bishops' Synod the official document no. 3676/min.647 of 10th Dec., 1963, reg. no. 539060, which arrived to Chicago on Jan. 15, 1964, and to Libertyville on Jan. 16, 1964, as it is evident from the envelope which is being sent back as well.

At the same time, without a reply is being sent back also the act of the Holy Bishops' Synod, ref. no. 3215/min. 509, of Oct. 18, 1963, with an attached INDICTMENT, which was written by Bishop of Zietha Vasilije, on his own shame. All of this is being sent with the following explanation:

1.—Since intentions and orders of the communistic regime in Yugoslavia are in question, it is absolutely useless to write anything, or to discuss and to prove to the Holy Bishops' Synod, Assembly and Schismatic His Holiness Serbian-Macedonian Patriarch Gherman, who breaks many rules of the holy canons as well as several regulations of the Constitution of the Patriarchate and Procedure for Church Courts, Penal Code, procedure and Constitution itself of this Diocese. It is evident from the following brief explanation:

(a) His Grace Metropolitan Damaskin, during his visit to America, himself noted that all accusations against me shall be presented to me for reply, and Bishop Backi Nikanor mentioned that in the minutes. That right of accused was not respected by the Holy Bishops' Synod and even denied it to me. The Holy Bishops' Synod has published the above its official document (act) in the papers (newspapers) in here before any reply from me, even denying my request for an extension of a term for an answer—and by that the Holy Bishops' Synod commenced also an open fight against me, giving chances to irresponsible elements here for different comments causing me a personal harm as well as to our Holy Church. Is a high Church authority as the Holy Bishops' Synod allowed to do something like this?

(b) From the Secretary of the Holy Bishops' Synod testimony (Very Rev. Mladen Mladenovich) before the American Court in Waukegan, Illinois, it is evident that the delegation headed by Metropolitan Damaskin did not have a slightest intention to reestablish spiritual connections between Yugoslavia and this Diocese (!), the connections which were not broken, but to collect many accusations against me as possible. By that, he exploited our hospitality and made a sin which shall never be forgiven to him. Why did he not give me all the accusations or sent them for reply? He did not do that; he even hides names of my accusers. That is why I accuse Metropolitan Damaskin and the Delegation before history, all the Serbdom and God. The same I shall do before any legal court. He broke 6th canon of the Holy II Ecumenical Council and others as well.

Metropolitan Damaskin and his Delegation did not have a national feeling or courage to defend truth and justice, but severely objected, when in their presence I attacked

communism and the communistic regime in Yugoslavia. He, himself, Metropolitan Damaskin, caused a scene in Cleveland, the one which the procommunistic group here used and made a noise causing bad consequences in the Church Community of Cleveland as well as different comments on our Church's account.

2.—The Holy Bishops' Assembly, Synod and schismatic Patriarch Gherman broke many sacred canons, even the Constitution of the Patriarchate and the Rules of the Procedures of Church Courts, Penal Code of the Serbian Orthodox Church. In their obedience to the communistic regime by breaking the valid church rules they exceeded even communistic courts. Some of their trials when it is necessary have appeared in a legal form as it was the case of trial of General Draza and others!

When some church authority learns about any guilts of anyone of the Church, it immediately orders an investigation through some lower authority. When the lower authorities accomplish a necessary investigation, the whole matter are sent for decision and trial to first competent authority; later it goes to a higher one (because of an appeal or by official duty). However, this normal procedure was not applied to me, but first I was sentenced by the Holy Bishops' Assembly—the highest church authorities—and then the matter was given for investigation to a lower authority, i.e. the Holy Bishops' Synod!

There actually was no investigation. The Investigating Commission did not make available to me for evidence the necessary court material, did not hear my witnesses, didn't see me face to face with my accusers, etc. Essentially it was true that the Commission did not come to investigate the accusations against me, but to strengthen my accusers and to help the communistic plan for my fastest possible "liquidation"! The Delegation met with me only once and

hastened to carry out what had been ordered by the COMMISSION FOR RELIGIOUS AFFAIRS from Belgrade. Thus, THE INVESTIGATING COMMISSION did not do for what it was invited by our Diocesan Council. That is why I accuse the INVESTIGATING COMMISSION before History, before Serbian People, and the same I shall do before any Court on the ground of all positive laws and rules referring to the investigation.

By its Act, ref. no. 3676/min.647, of Dec. 10, 1963, the Holy Bishops' Synod denied me also the right of complaint against its decision as well as the right of presenting available all accusing material. By that, the Holy Bishops' Synod breaks the certain rules of the Constitution of our Patriarchate, the rules which say that the Holy Synod is the first body, and the Holy Bishops' Assembly the last and highest in cases of conflicts with the Bishop.

3.—Even the simplest, honest man may realize that it is not possible for me to defend myself in Belgrade which is about 6,000 miles away from America. It was necessary and should have been done: to complete all the investigating material and procedure in here, on the very spot, and then to transfer it Europe, Belgrade, for further decision. Besides, all of that, under the circumstances, I do not have a feeling of safety to go to Belgrade to defend myself, and I have no possibility to bring my witnesses there, nor to face my accusers in the court. When St. Cyril and St. Methode were on trial before a court in Rome in connection with accusations of German Catholic priests, it took almost two years. I was allowed only the term of two months! The tendency is evident. On the basis of the fact that the Court of the Holy Bishop's Synod and Assembly in Belgrade are very partial, as obeying the Commission's orders, I asked for *exemption* of that Court and turned to the Patriarch in Constantinople for protection. I agreed

also that in America to be formed an honest Bishop's Court from the Bishops of free orthodox Churches, a Court where I will be allowed to defend myself and to prove that the accusations are lies.

Let the Holy Bishops' Synod, the schismatic Patriarch Serbo-Macedonian Gherman, and the Holy Bishops' Assembly, know that I shall use all available means and all the rights given to me by the holy canons and church legislature to defend my name, honor, reputation, and dignity.

I am adding that His Holiness Patriarch of Serbo-Macedonian Church, praying for the atheistic-communistic regime, for their President and authorities and cooperating with them BECOMES A HERETIC. Against him, who divided the Serbian Eastern Orthodox Church, and served as a communistic tool for that purpose—and did not defend the Church with a readiness to give his soul for the rights of the faithful people—Serbian People—we shall also take legal steps before some courts. We are accusing him before history, before the Holy Orthodox Church, before God and Serbian Nation who very soon will sue him.

Serbian Eastern Orthodox Bishop
for America and Canada
Dionisije

PLAINTIFF'S EXHIBIT 84X

In the Monastery of St. Sava, Libertyville, Ill.

November 14, 1963

COMMITTEE FOR RESOLUTIONS AND GREETING OF THE TENTH DIOCESAN CHURCH NATIONAL ASSEMBLY

Dr. Milorad Draskovich — Secretary

Dr. Ranko Braschich — President

MEMBERS

Nick Stepanovich
Dr. Urosh Deferovich
Jovan Kontich
V. Rev. Ugljesha Jelich
Sofija Duchich
Miolsh Bajcetich
Robert Lagator

VERIFIED BY THE PRESIDENCY OF THE ASSEMBLY

Tenth Church-National Assembly
Bishop Dionisije, President
V. Rev. Svetozar Radovanovich, Vice-President
David Bundalo, Vice-President
Daniel Prodonovich, Assist. Vice-President
Dragisha Milich, Secretary
Janko P. Kovacevich, Secretary for English

The Tenth Church National Assembly of the Serbian Orthodox Diocese for the United States of America and Canada, in continuance of its session, held on November 12, 1963:

WHEREAS is has been advised in the report of its Presidum and the Diocesan Administrative Board that the Holy Synod of Bishops of the Serbian Orthodox Church in Belgrade, in its Act No. 2771/Record 371, dated September 3, 1963, refused to take into consideration the

justified demands of this Assembly, as the legitimate representative of the absolute majority of the church and school communities united into this Diocese, as well as of their members and parishoners, as set forth in the Assembly's Resolution dated August 8, 1963, and;

WHEREAS it has established, in full agreement with the Diocesan Administrative Board and its announcement, dated September 28, 1963, that this decision of the Holy Assembly of Bishops and of the Synod, from May and July, 1963, was issued under the pressure of the present Communist regime in Yugoslavia, which can be supported by overwhelming evidence, and;

WHEREAS in a detailed debate in which a great number of the present delegates who presented the absolute majority from the territory of this Diocese participated and;

WHEREAS it has heard the report of its Committee on Resolutions and Greetings and the Committee for the Modifications and Amendments of the Diocesan Constitution,

has unanimously adopted the following

DECISION

1. In accordance with the provisions of article 3 and article 7, Subsection 2, of the Resolution of the Church National Assembly of August 8, 1963, the Serbian Orthodox Diocese for the United States of America and Canada is hereby declared COMPLETELY AUTONOMOUS and as such it will receive in the future any orders, decisions, or decrees from the Patriarch, The Holy Assembly of Bishops and the Synod of the Serbian Orthodox Church in Belgrade, as long as they are unable to act freely; bring their own decisions freely, which decisions they are now bringing under pressure of the Communist regime in Yugoslavia.

It shall be so as long as Yugoslavia is in Communist captivity, and once this captivity ceases the very same relations between this Diocese and the Serbian Orthodox Patriarchate shall be reestablished as they existed before the Second World War. In this period, as the only free Diocese, this Serbian Orthodox Diocese for the United States of America and Canada, will serve as a sanctuary for all orthodox Serbians and their religious establishments in the free world, and at the same time this Diocese will protect the interests of the Mother Church, her hierarchy and her faithful in the enslaved fatherland.

2. The Diocesan Council and the Diocesan Ecclesiastical Court are authorized in case of legal necessity, and with the aim of securing the canonical-judicial continuity and unity for this Diocese, insofar as the hierarchial organization or the reorganization of this Diocese has not been put into effect, to seek cooperation or assistance of any canonical Orthodox Church in the free world.

In this regard, and in case of necessity, the Diocesan Council shall convoke the Diocesan Church-National Assembly in extraordinary session.

Libertyville, November 13, 1963
Committee for Resolutions and
Greetings:

Secretary

Mr. Milorad M. Draskovic

Chairman,
Dr. Ranko M. Brasic

MEMBERS OF THE COMMITTEE:
Nikola Stipanovich, Dr. Uros Seferovic, Sofija Ducic, Very Reverend Ugljesa Jelic, Jovan Kontic, Milos Bajcetic, Robert Lagator

Committee for Modifications and
Amendments to the Diocesan Constitution:
Chairman,
Dr. Caslav Nikitovic

MEMBERS OF THE COMMITTEE:

Archimandrite Irenej Kovaceyic, Nikola Stipanovich, Dr. Ranko M. Brasic, George Bujnovich

PLAINTIFF'S EXHIBIT 84CC
SECOND PROCLAMATION
November, 1963
of the
Tenth Church-National Assembly of the Serbian Orthodox Diocese in the United States and Canada, convoked into Regular Session of the Days of August 6-9, 1963 and Continued on the Days of November 12-14, 1963 in the St. Sava Monastery, Libertyville, Illinois

The presiding officers and delegates of the Tenth Church National Assembly of this Diocese in its continued and conclusive session which took place on the dates of November 12, 13, 14, 1963, send their brotherly greetings, to those who together with them defend the existence, unity, autonomy and liberty of our mutual Serbian Orthodox Diocese of the United States and Canada. Also to all Serbian brethren who are in the free world and who, together with their Church School Congregation, seek the shelter and protection of this Diocese. Also the faithful Serbian Orthodox Clergy, priests and monks and all of the brethren in our enslaved Fatherland, with the brotherly greeting we send the expression of sincere and brotherly feeling for their suffering under present persecution with an assurance that they are not forgotten and will not be forgotten in the future. We are fighting for our and their mutual benefit. May God and St. Sava be with all of us now and forever.

Executing the decisions of the Assembly resolution of August 8, 1963, the presiding officers sent their resolutions to His Holiness Patriarch of the Serbian Orthodox Church in Belgrade, Yugoslavia. The tendency was to give the Patriarch and the Holy Synod a possibility once more in a period of time mentioned in Art. 7 paragraph 1 of the resolution to reconsider their decisions issued in May and

July of this year in order that they could respond to justified goals of the Tenth Church National Assembly (Sabor) as the supreme body of the Serbian Orthodox Diocese in the United States and Canada.

Thus the Tenth Sabor answered the wish of the delegates, membership and parishioners of the Church School Congregations which they represented, and to show that the best wish to bring this problem back to a path of legality and justice and the true interest of our Mother Church in the old Country and all over the free world.

Instead of a direct answer to the presiding officers of the Assembly which procedure should be not only christian but also for the well understood interest of our Holy Mother Church, The Holy Synod distributed its decisions No. 2771/371 of September 3, 1963 as a leaflet throughout the United States and Canada. This was of distribution and offending manner and contents of this decision convinced this Assembly and all members of this Diocese that the above mentioned decisions is a consequence of the difficult and enslaved condition of our Serbian Orthodox Church in Yugoslavia as well as permanent pressure and permanent iron control of the Communistic Federal Religious Committee for Church matters upon our Church.

The contents of the above mentioned act of the Holy Synod would even in normal time convince every individual and every organization that any further attempt to a peaceful solution of the present situation is a complete illusion. However the legal advisor of our Diocese, Mr. Nick Stepanovich showed his readiness to make one new attempt for such peaceful solution through a negotiation with the representatives of the three newly appointed Bishops. The executive board of the Diocese did not wish to prevent his action even though he was convinced that the negotiations would be fruitless.

A very interesting fact to be emphasized that the meeting took place on the 9th and 10th of Oct. and the newly appointed Bishops signed an injunction on the day before, asking the Circuit Court in Waukegan to prohibit Bishop Dionisije as to the handling of the financial incomes and control of all funds of the Diocese. This action was brought before the court on the 14th of October in spite of the promise to continue negotiations and to search for a possible peaceful agreement.

The whole action of the enslaved Bishops council and Holy Synod against the unity, autonomy and liberty of this Diocese was secretly prepared by the communist party of Yugoslavia. So was the procedure of the three newly appointed Bishops in the course of their conversation. The legal advisor of the Diocese was right in his statement that this was a Pearl Harbor for the Serbian Orthodox Diocese in the United States and Canada.

The newly appointed Bishops received a dignified response from Judge Phillip Yeager, in the Circuit Court in Waukegan, who rejected their injunction. It is understood that this action will be continued as well as new actions will be started not only against the Diocese, but also against certain Church School Congregations. A senseless waste of money given by the Serbian people will be spent instead of being used for the benefit of the Mother Church in the old country and in the new world. A hatred and intolerance will be sewn among us, smearing the dead and living, as of communist need since they have proven to be the best masters of this kind of subversive action.

With the deepest regret of the events which will yet occur in the future, this Tenth Church National Assembly wishes to state an undeniable truth; that it did not cause this tragedy and that the Assembly, and the people whom the Assembly legally represents, are not guilty of this. Before God, St. Sava history, people and generations yet

to come the responsibility of this action falls on the communist rulers in the enslaved old country (Yugoslavia) as well as those who didn't help in any way to prevent or obstruct the course of these events.

This Assembly cannot neglect the fact that the propaganda which is lead by and in behalf of the newly appointed Bishops and their Dioceses, existing only on paper, is a propaganda just of the same type as that of the totalitarians against their adversaries. Lies, insults and calumny are the tools of such propaganda so that we who are attacked, have to be ashamed because of them.

This Assembly is deeply convinced as the highest body of the Diocese as well as His Grace Bishop Dionisije and all other officials of the Diocese, that it has been done their best in trying to find a compromisable agreement as a solution of this tragic situation. We passed over the humiliation and degradations since we had in mind only the best interest of our Diocese as the only one, free Diocese of our Mother Church—Serbian Orthodox Church of St. Sava.

Several times it was emphasized and put into the last amendments of our Constitution which were adopted at the Tenth Church National Assembly that our Diocese is considered as a part of the Serbian Orthodox Patriarchate of the Kingdom of Yugoslavia. With this, we wish to emphasize and put in the minutes of history, that we are a continuation of the old, free, Mother Church and her last free part. We are aware that this situation dictates to us special duties and obligations, but we are also aware as true and devout sons, that we will never fail completely to fulfill these duties for the benefit of our Serbian people and our Mother Church.

All the afore mentioned and many other circumstances which are generally well known leave no other road to the Assembly, to the Diocese or to its faithful followers but

to start to establish our completely autonomous and independent Serbian Orthodox Diocese in the United States of America and Canada.

Once again this Assemly wishes to give a most decisive and most solemn declaration: we are not receding or breaking the unity from our Mother Church. Since we are the true continuation of the last free Diocese of the once free Serbian Orthodox Patriarchate in the free Kingdom of Yugoslavia.

In view of the aforesaid, and deeply convinced that the Almighty God, who knows and hears everything and is everywhere present, is looking upon us with Blessings and that he is showing by his Providence to us with his immeasurable mercy the road which to follow and which shall our posterity to follow in the future, then in the same conviction that by following that road our Diocese may remain free and will be able to prevent communistic infiltration into our minds, in our organizations and institutions, this Tenth Church National Assembly of the Serbian Orthodox Diocese in the United States and Canada at its sessions of November 14, 1963 unanimously adopted the following:

RESOLUTION

1. According to the Art. 3 and 7, Paragraph 2, of the resolutions adopted in the Assembly of August 8, 1963, the Serbian Orthodox Diocese in the United States of America and Canada by this itself

PROCLAIM

Completely Autonomous and as such will not receive any future orders, decisions or resolutions from the Patriarch, from the Bishops Council, nor from the Holy Synod of the Serbian Orthodox Church in Belgrade, Yugoslavia, until

they will be able to act freely and their orders may insure freedom since they are now under the pressure of the Communist government which is in power in Yugoslavia. This procedure will last until Yugoslavia is in the Communist slavery. And when this slavery ceases, the relations between this Diocese and the Serbian Orthodox Patriarchate will be the same as it was before the second world war.

During this period of time, this Serbian Diocese in America and Canada as the only one free, will serve as a sanctuary for all Orthodox Serbs and their National and Religious institutions in the free world, and it will take care to help the Mother Church in the enslaved Fatherland, her Hierachy and faithful.

2. Consider it indispensible to solemnly repeat once more that this Assembly does not recognize and consider them unlawful, unconstitutional, nonexisting and nonvalid decrees and decisions of the Holy Bishop's Council and Holy Synod of the Serbian Orthodox Church of Yugoslavia. These decisions notified to this Assembly, are concerned as to the division of our Diocese into three new Dioceses, suspension and banning of the duties of our Bishop Dionisije, and finally concerning the consecretion of the three new Bishops: Stefan Lastavica, Firmilian Ocokoljich, and Gregorije Udicki. That also applies to the decisions of the Holy Synod of No. 2771/371 from the 3rd of September, 1963.

3. Considering ourselves as a true continuation of that old and free Serbian Orthodox Church, we do not recede from our Mother Church; we only continue our traditional ways of the Serbian St. Sava Church and will remain on that way uncompromisingly until the final victory of the good against evil.

4. This Assembly is letting it be known to all our enslaved brothers to know, when they seek the path to freedom, that our Serbian Diocese in the United States of America and Canada will be their protection in the future as it was in the past, and will be truly careful Mother and will accept them in her Motherly lap. The brethren of St. Sava who remain in the old country should know that they are not forgotten and will not be forgotten in the future. On the contrary, we will be prepared with all our knowledge, faith and possibility to help them today, tomorrow and always until the day of liberation comes which we will celebrate together.

5. Let in this moment be heard our solemn and sincere pledge to God, St. Sava, our Mother Serbian Orthodox Church and the Serbian people that we will act and proceed according to our conscience and our deepest conviction and our best knowledge and skill in order to defend and assure the existence of unity and freedom continuation, interests and benefit of this our Serbian Orthodox Diocese in America and Canada. By doing this we are fighting in the benefit of our Mother Serbian Orthodox Church in the enslaved old country, as well as for the benefit and prosperity of the United States of America and Canada.

PLAINTIFFS' EXHIBIT 85

OFFICIAL REPORT OF THE MEETING OF THE DIOCESAN EXECUTIVE BOARD

The Diocesan Executive Board met at its regular session on Wednesday, April 17, 1963, at the St. Sava Monastery in Libertyville, Illinois, and at this time issued the following

STATEMENT

The entire Diocesan Executive Board with Bishop Mr. Dionisije at the head unanimously and definitely stands for the SPIRITUAL, HIERARCHIAL AND CANONICAL UNITY WITH OUR HOLY CHURCH IN YUGOSLAVIA.

The BOARD was in the past, just as it is today, as it will be in the future, for the basic principle of Serbian Church constitutionalism, which states that the Serbian Orthodox Church is ONE, INDIVISIBLE AND SELF-GOVERNING.

We most emphatically denounce and condemn all prognostications, regardless of origin, which might even suggest that the Diocesan, Hierarchical or Church-Executive bodies are working in contradiction to the above stated principle.

With hope that our Holy Church with His Holiness Patriarch Mr. German as its head, will always in the future, as in the past, be prepared to understand and to conceive our wishes and needs stipulated by the specific conditions in which we live, and to accommodate us in this respect so that our unity and indivisibility might in this manner always be mutually manifested at the benefit of our entire Serbian Orthodox Church and Serbian people.

We most emphatically denounce and condemn all ill-intentioned presumptions and baseless assertions given in alleged destruction of the unity of our Holy Church, as well as inconsiderate attacks on church and clerical bodies and personalities of this Diocese.

In regard to the remarks relating to certain faults of our Bishop Mr. Dionisije and assumptions about his trial and discharge, we state that only the Holy Bishops' Synod and the Holy Bishops' Council of our Holy Church in Belgrade is competent for this matter and that they will bring their decisions and decrees by reason of all set forth.

We beg and appeal to all our Serbian people in America and Canada, congregated in our church-school congrega-

tions and other patriotic organizations, to accept our statement most sincerely and to emphatically squelch similar attacks in the future, not paying heed to them, for they are only detrimental and retrogress the normal life and work of our Serbian Orthodox Church in America and Canada.

Signed by: Bishop Dionisije (L.S.)
Archimandrite Firmilian (L.S.)
Archimandrite Balach (L.S.)
V.Rev. Milan Brkich (L.S.)
V.Rev. Dusan Klipa (L.S.)
V.Rev. Miodrag Djurich (L.S.)
V.Rev. Miodrag Mijatovich (L.S.)
Rev. A. Dimitrijevich (L.S.)
Dr. Uros Saferovich (L.S.)
Svetozar Maravich (L.S.)
Nikola Stepanovich (L.S.)
Dr. Djuro Radojovich (L.S.)
Milan Drobac (L.S.)
Milos Vidakovic (L.S.)
Milo Cvetkovich (L.S.)
Bozo Vujovich (L.S.)
Nikola Chabraja (L.S.)
Milan Radakovich (L.S.)

PLAINTIFFS' EXHIBIT 86

RESOLUTION
OF THE ANNUAL MEETING OF THE CLERGY
ASSOCIATION HELD MAY 8 and 9, 1963

The Clergy Association of the Serbian Orthodox Diocese of America-Canada at the annual meeting held May 8th and 9th, 1963, at the St. George the Martyr Church in Morain, Ohio, unanimously set forth the following

RESOLUTION

1. The clergy of the Diocese of America-Canada admitted in their Association, stands ucompromisingly for the spiritual, hierarchial and canonical unity with the Serbian Orthodox Church in the fatherland with His Holiness, the Serbian Patriarch and the Holy Bishops' Council at the head. This stand by the clergy was distinctly and unambiguously expressed at their annual meeting in Youngstown, Ohio, at their special meeting in South Bend, Indiana, and at the meetings of the clergy of the Archpresbyterates for the Middlewest and East. This stand was definitely formulated as well with the statement of the Diocesan Executive Board dated April 17th, 1963. With this statement, the Diocesan Executive Board, the competent Bishop Mr. Dionisije at its head, implicitly declares itself to be "for the spiritual, hierarchial and canonical unity with our Holy Church in Yugoslavia; that it was, just as it is today and as it will be in the future, for the basic principle of ecclesiastical Serbian constitutionalism which states that the Serbian Orthodox Church is one, indivisible and self-governing." In regard to this indivisibility, distinctly expressed at the above mentioned clergy as well as Diocesan official gatherings, the members of the Clergy Association declare that they will not avert from this course.

2. The members of the Clergy Association denounce all suggestions, regardless of origin, of any autonomy of our Church in America and Canada, which are automatically excluded by the official stand of both the clergy and the Diocese on the unity of the Church and which, being one, indivisible, and self-governing can only be governed in accordance with the Holy Canons of the Orthodox Church, the Constitution of the Serbian Patriarchate and the Constitution of the Diocese of America-Canada and what is most precious—the inheritance of St. Sava.

3. The Clergy Association condemns all unsubstantiated written and verbal assertions, that our church in the homeland—in the old country—is allegedly imposing her will upon us, which is directed by the present communistic authorities in Yugoslavia. All know that our Holy Serbian Orthodox Church exists under trying conditions today in our enslaved country and that just because of this she deserves explicit attention and moral and material support from us free Serbs. And even under such trying conditions, our Mother Church did not hinder the free and nor-

mal course of our church life here with a single act. No one, therefore, has a justifiable reason to seek any change in our relationship with our indivisible St. Sava Church.

4. Due to the undesired disagreements and disturbances in our Diocese because of the discussions on autonomies, the Clergy Association meeting moves and begs the Diocesan Council and the Board for the Change and Amendment of the Diocesan Constitution to refrain from presenting all requests to legalize demands for seeking autonomy and removal from our Holy Church at the following Church-National Assembly on the American-Canadian Diocese.

5. The Clergy most sincerely greets the Serb National Federation, the pioneer organization of the Serbs in America and Canada, which constantly contributed to the care and cultivation of the religious and national life in this Diocese.

6. From its meeting, the Clergy expresses its gratitude to the Serbian organizations, people and all newspapers who gave the clergy complete moral support due to all these arisen disorders by taking an objective and correct course.

7. The clergy most sharply condemns the provocative and unwarranted attacks on individual high church dignitaries of our Holy Church, as well as on the members of this Association themselves and other honest Serbs, through which disturbance and unnecessary comments are brought amongst the people.

8. As to the unhealthy and incomprehensible appearance of the illegal dismissal of parish priests by immediate expressions of inconfidence to said clergy by individuals and groups, the clergy remains consistently on the course outlined in the resolution under item I of the special meeting of the Association held November 19th, 1962, in South Bend,

Indiana. The clergy, members of the Association, remain decisively on the standpoint that in such instances they will not respond to vacancies in any parish created in such a manner.

9. In regard to the alleged faults and transgressions of our Bishop Mr. Dionisije, about which we hear and read, the Clergy Association stands implicitly in accordance with the decision of the Diocesan Executive Board dated April 17th, 1963, which states: "that only the Holy Bishops' Synod and the Holy Bishops' Council of our Holy Church in Belgrade is competent for this matter and that they will bring their decision and decrees by reason of all set forth."

10. We appeal to our Orthodox and patriotic Serbian people in America and Canada to remain faithful and unfaltered sons of their St. Sava Church in these disturbed times, with complete confidence in their archpriests and clergy.

Serbian Orthodox Bishop of America-Canada
Dionisije
Archimandrite Firmilijan Ocokoljich
Archimandrite Grigorije Udicki
V. Rev. Vlastimir Tomich
V. Rev. Milan Brkich
V. Rev. Stevan Prostran
V. Rev. Pavle Zelich
V. Rev. Milorad Dobrota
V. Rev. Dusan Klipa
V. Rev. Peter Punovich
V. Rev. Stevan Lastavica
V. Rev. Miodrag Mijatovich
V. Rev. Radica Purich
V. Rev. Miodrag Djurich
V. Rev. Emilijan Glocar
V. Rev. Djuro Vuskovich

V. Rev. Dr. Milan Popovich
V. Rev. Radovan Miljkovich
Rev. Hateja Matejie
Rev. Milan Dajich
Rev. Dusan Popovich
Rev. Velimir Petakovich
Rev. Aleksander Dimitrijevich
Rev. Djordje Lazich
Rev. Milan P. Markovina
Rev. Milorad Milosevich
Rev. Dr. Krstivoj Kotur
Rev. Slobodan Zivadinovich
Rev. Milan Savich
Rev. Bozidar Dragicevich
Rev. Miladin Garich
Rev. Vladimir Suka

PLAINTIFFS' EXHIBIT 87

Phone EMpire 2-9826

SERBIAN EASTERN ORTHODOX DIOCESE FOR
THE UNITED STATES OF AMERICA AND CANADA

June 7, 1963

V.Rev. Milan Brkich, pastor
Milwaukee, Wis.

Very Rev. Father proto,

Since at yesterday's meeting of the Diocesan Plenum you agreed with the statement of Very Rev. Firmilian that he does not recognize me any more as his bishop, you resigned as member of the Ecclesiastical Court and as member of the Diocesan Council, which was registered in the minutes. Your resignations are accepted. You broke any further cooperation with us!

In connection with this we inform you, that we relieve you of the duty of our Episcopal vicar of the Midwest Vicariate of the Serbian Orthodox American Canadian Diocese.

You send us the archives of the Vicariate.

Thanking you for your cooperation, which was until your reorientation was fruitful and constructive, and wishing you every good from God,

With blessings
Serbian Orthodox
American Canadian Bishop
+ Dionisije

(photocopy certification omitted)

PLAINTIFFS' EXHIBIT 88

Bishop Dionisije:

1. THE DIOCESAN CHURCH-NATIONAL ASSEMBLY

IT WILL BE HELD AS SUMMONED. Agitation has begun against the Church-National Assembly. Even earlier this group: Djujich-Djotich's Zbor-Tito's agents have released the news, how even the Assembly itself was not legally called. Especially prominent, there is our American administrative triumvirate, among whom most of all is archimandrite Firmilian. They say this assembly is illegal

because the summons for the same was not signed by the Bishop nor by his surrogate. Relative to that they are urging the church congregations not to send delegates to the Assembly, to boycott the Assembly so that the same would not be held in order for them to be able afterward to hold their Assembly! Because at this Assembly will be decided precisely that question: the recognition or non-recognition of the decisions of the Holy Assembly and Synod of Bishops, that is, of the communistic regime through the religious Commission. And from the people's disposition as it now stands, it is obvious that those decisions could even be unrecognized, that is, rejected. That is why they hurried to proclaim our Church-National Assembly as illegal.

The Facts in connection with the Assembly are these:

The first summons for the Assembly in April of this year I did sign as Bishop on the basis of the Constitution and decision of the Diocesan Plenum of February of this year. That Assembly was scheduled for the month of October. However, because of disruptions in the life of this Diocese caused by the decisions from Belgrade, the Diocesan Plenum at its new meeting of June 6th of this year rendered a decision to move the date of the holding of the Assembly in order for conditions in the Diocese to be normalized as soon as possible. Because I did not sign that second summons, and I could have since I have not surrendered my administration, does not change matters. Even the secretary of the Diocese could have signed this decision of the Diocesan Plenum, or yet even the vice-presidents of the Diocesan Council, who are authorized in every case, when the Bishop as president is prevented from presiding over the Council. For this reason the summons of the Assembly for the month of August is legal, entirely legal, and all church-school congregations are invited to send their dele-

gates to the same. Archimandrite Firmilian was present at the meeting of the Diocesan Plenum, who himself voted for the moving of the date from October to August. Why does he now renounce the legality of the Assembly! Why does he fear the Assembly as also do all of his helpers.

On the basis of the Diocesan Constitution, Art. 36, point 4 and Art. 24, the Diocesan Council is authorized for summoning the Assembly and for compiling the Agenda for the Assembly. Therefore let the church-school congregations not pay attention to these fabricated criticisms against the Assembly, but rather let them send their delegates to the same, so that this painful question can be quickly resolved and the Diocese again resume its normal flow of work.

Since there is not a single clause in the Diocesan Constitution which foresees any kind of quorum for the holding of an Assembly, the Assembly will be held with as many priests and delegates as there are present. Those church congregations which do not send delegates will be considered to be in agreement with the rendered decisions of the Assembly. This Assembly will be presided over by the presidium which is elected at the Assembly. I have not surrendered my duties; I could preside over the Assembly, but I will leave that to the people—the delegates to decide what they think is best for the interests of our Holy Church and Diocese.

2. THE PROCOMMUNISTIC METHOD OF INVESTIGATION BY BISHOP VISARION OF BANAT AND BISHOP HRIZOSTOM OF BRANICHEVO.

In the conviction that the investigation against me would proceed in a lawful and canonical manner, the Diocesan Plenum asked for an Investigating Commission which would, before our Church National Assembly, investigate all the charges and this question would be removed from

the Agenda. The Holy Synod immediately sent a Commission which had as its main purpose, as written in Belgrade's "Politika," to consecrate and install Bishop Lastavica, to help in the struggle against us the elements over here, and then afterwards to investigate the charges. And the judgment against me was rendered yet in Belgrade, and now the only form is being sought how to legalize it!

And the Commission arrived June 28, when our congresses begin, when King Peter II is already in America.

The Commission received first information from the Yugoslav communistic consul in New York, with whom it had a conference of 45 minutes at the airport. Then it turned to those persons who were leading and are leading the fight against me, it attempted to gather some information from the episcopal Bishop Scaife, and only then on the 5th of July it came to the Monastery, that is, to a meeting with me "for the investigation"! I was unable to receive the Commission at the Monastery. There were several priests and members of the Diocesan Executive Board and Church Court with me. We held talks in a nearby restaurant. The talks were overseen by Bishop Visarion even though younger by consecration, but he is a "regime man," and Bishop Hrizostom kept the minutes.

The Commission elected (to conduct the talks) by way of minutes and a hearing, while I sought that the complaint material be submitted to me in transcription so that I could reply to it in writing. The Commission did not accept this, upon which I declared that I will not reply orally, concerning which I also submitted to the Commission a letter of mine. I also declared that I will not even sign the minutes. The Commission then stated that, nevertheless, there is plenty of material against me—and it left—to Milwaukee, where it issued the next day a COMMUNICATION in which the facts were inaccurately brought out, but

it is stated that everything that I have written in my defense serves as proof of guilt and that this calls for the greatest punishment: defrocking of episcopal rank and excommunication from the religious community! Such a decision was already rendered yet in Belgrade with which the Commission came! It is necessary for Tito's regime that I be in some way rendered helpless, and to kill me.

Why was the Commission afraid to submit to me in transcription the charges and submissions in accordance with article 67 of the Penal Code?! Because many of the charges are pure fabrications, and the accusers are afraid that I will sue them in civil court, for them to prove that which they have written. Many of the accusers have renounced their complaints or have withdrawn the same. At the airport this was discussed between Tito's communistic consul and the Commission, and the members of the Commission in several places expressed the fear of revealing the names of the accusers, because they might withdraw their charges and complaints or renounce them, and then the entire matter would collapse.

The Commission endeavored in every way to complete the first and main part of its mission, to consecrate Archpriest Lastavica as a Bishop in order to place American and Canadian Serbdom before an accomplished act.

Relative to the investigation itself, which the Commission itself cut off with the statement that a Bishop-prosecutor will be selected who will prepare the indictment against me. However in its COMMUNICATION the Commission stated that orders should not be obeyed issued by me or on the part of the Diocese, but only those which are issued by the administrators. By this the Commission violated the rights of the Diocesan Council and Church Court, in other words DISMISSED THEM, since it needed to impose its decisions and their decrees from Belgrade. No one has the

right, nor had the right to dissolve the Diocesan Council and Church Court and the remaining diocesan bodies and organs, since these are elected, except the Court, at the Church-National Assemblies and their mandate lasts from Assembly to Assembly! I have complained to the Holy Synod about the work of this Commission.

COMPLAINT AGAINST THE INVESTIGATING COMMISSION

"The Holy Synod of Bishops of the Serbian Orthodox Church,
Belgrade, Yugoslavia.

Your Holiness,

I hereby submit a complaint against the work of the sent INVESTIGATING COMMISSION, whose coming was announced to me by Act of the Holy Synod of Bishops number 1986/min. 265 of June 13th of this year, which did not in any way adhere to the given authorization and directions of the mentioned Act "to conduct proceedings, to investigate the matter and conduct necessary hearings of the accused and witnesses, as also to conduct the collection of evidence and concerning their findings to submit a report with all related documents to the Holy Synod of Bishops for further competent proceedings."

Their Graces Bishops Hrizostom and Visarion informed me by their letter of June 30 of their coming, although they arrived June 28, and sought to be received on July 5 at St. Sava Monastery. Having learned that this Commission arrived, I issued my communication, here enclosed, seeking on the basis of article 67 of the Penal Code, that I be sent in transcription all written statements, that is, private complaints, so that according to them I may write

my written explanation and hearing. The Commission did not do this.

Out of brotherly considerations towards my brother Bishops I agreed to receive them, but not at St. Sava Monastery because this was not possible for me, but rather at another place, in a restaurant, figuring that we would also have dinner there. I here mention that H.M. King Peter was here on a visit and that I was in no way able to receive the Commission at the Monastery where the King was on a visit the day before.

In the beginning of our talks I submitted to the Commission a letter, the copy of which I enclose, declaring that I do not agree to oral hearings, because I must know who is accusing me and why I am being accused! Your Commission avoided this, concealing the accusers and the complaint material. His Grace Visarion conducted the talks in behalf of the Commission. When I, in the very beginning, when His Grace Hrizostom began recording the minutes, stated that I seek that all questions be submitted to me in writing, that is, the complaint material, I also stated that I will not respond like this orally, nor will I sign the minutes. The only thing that I declared is that I stand by my statements concerning the decisions of the Holy Assembly of Bishops and Synod, which I consider that I had the right and duty to do in my own defense, which no one can deny me.

Instead of giving to me the complaint material in transcription, the Commission ended the investigation, and His Grace Visarion stated that there is nothing more here to be heard since the accused acknowledged as his own all those declarations, which are adequate for the deciding of this case. When I asked him what is the next procedure, he said: The Holy Synod of Bishops will appoint a Bishop as

the Church court prosecutor, who will prepare the indictment and forward it for a reply.

After that, the Investigating Commission in Milwaukee on the next day, July 6, issued the enclosed COMMUNICATION, in which it distorts the facts and in which it claims: that Bishop Dionisije trampled on his episcopal oath, which, they say, has been completely established, that he renounced obedience to higher ecclesiastical authorities, and, besides all others, committed offenses according to articles 10, 15 and 17 of the Rules and Procedures for Ecclesiastical Courts of the Serbian Orthodox Church, which offenses invoke with them the severest ecclesiastical penalty—defrocking of the episcopal rank and excommunication from the church community—and therefore they call upon all church-school congregations, all clergy and all faithful sons and daughters of the orthodox dioceses— the Mid-American, the Eastern American-Canadian and the Western American—not to be subject unto Bishop Dionisije in anything, but rather to be subject unto the temporary administrators: Archimandrite Firmilian, Archimandrite Udicki and Protosyngelos Stefan, who shall conduct all church matters in accordance with the effective church rules and canons.

Your Investigating Commission mentioned the request to the Holy Synod of Bishops, that a Commission be sent; it mentioned that it came upon invitation of the Diocesan Plenum, but it paid no heed to the decisions of the Plenum, nor either to the already scheduled and called Church National Assembly, but rather like with force, wishes to impose your appointed administrators of Your three named dioceses. Your new administrators are issuing orders that the Church-National Assembly be boycotted, that congregations not send delegates to the same, nor for the clergy to come, threatening that every one who does not obey

will be defrocked! Is that the road to peace and of calming the spirits of this Diocese? For is that any way to impose upon these people that, which we positively know, is being imposed upon our Church in Yugoslavia by the regime? You are sinning before God Your Holiness!

Your Investigating Commission already in advance pronounces sentence over me, threatens by defrocking of episcopal rank and excommunication from the Church community! Have I deserved that from my native-country Church after 37 years of my priestly-monastic and episcopal work and many endured sacrifices? And what is gained here by that? A greater revolt against our Patriarchate and Your Holiness. There are already congregations here which are throwing out their priests, and there are more than half of the colonies which seek separation from the Patriarchate. I can no longer calm that, I cannot prevent it, and Your Holiness together with this Commission will bear the responsibility for this which inevitably is coming, if this Commission is not recalled and these decisions of the Holy Assembly of Bishops and Synod.

Since the Synodal Commission has published this COMMUNICATION, then I am also publishing this Act directed to Your Holiness for our people's information.

I declare that no one ever can excommunicate me from the community of Christ's Holy Church, and no one ever can separate me from Christ the Saviour at the Holy Serbian Orthodox Church of which Your Holiness is momentarily at the head. And the time will come, I trust in God, that You will be paid for all this as you deserve, that you receive together with the Holy Assembly of Bishops and Synod, as with this Investigating Commission, that which you deserve by God's justice.

A copy of this Act was sent to the Investigating Commission, as well as to all the clergy of the Serbian Ortho-

dox American-Canadian Diocese, and to the people.—Your Holiness' brother in Christ, Serbian Orthodox American-Canadian Bishop Dionisije."

DEMAND FOR CHARGES IN TRANSCRIPTION FROM THE INVESTIGATING COMMISSION

"Their Grace's Bishop Hrizostom of Branichevo and Bishop Visarion of Banat: Your Graces,

"The Act of the Holy Synod of Bishops number 1986/min.265 of June 13, of this year, by which I am informed that you are coming to America, among other things says: that the appointed bishops 'travel to the USA and in accordance with articles 67 and 90 of the Rules and Procedures for Ecclesiastical Courts, investigate the matter and conduct necessary hearings of the accused and witnesses, as also to conduct the gathering of evidence, and of the findings submit a report with all related documents to the Holy Synod of Bishops for further competent procedure.' Article 67 of the Procedures in the last paragraph expressly says: 'Insofar as it exists, a copy of the written complaint may be sent to the accused, respectively, of the private complaint, so that he himself may reply in writing by his written explanation and hearing.' Since your Graces have taken as a beginning only my hearing for recording in minutes, and thereby, since I had to reject as inadequate such a hearing, seeking communications, charges and complaints against me in writing, you immediately the next day issued your COMMUNICATION by which, as if though the procedure was completed, you have pronounced sentence upon me. Accordingly, Your Graces are intentionally avoiding to send to me the charges, complaints, etc., for a written reply. In so doing you are trampling the fundamental right of every man, and even mine, by not giving me either time nor opportunity to reply, to defend myself,

and for me to finally learn: who are my accusers and of what I am being accused. Because of that, not fleeing from a hearing and responsibility, I categorically demand in accordance with Article 67 of the Rules and Procedures for Ecclesiastical Courts, that the complaints, rather the private complaints, be forwarded to me in transcript, that I may give my written reply also, my explanation and hearing. Following this would come the question of examining witnesses.

"I believed that you will not commit such a great injustice which you are otherwise committing towards me, and that you would give that to me on the occasion of our first meeting. Your Graces did not do that, for it seems that the judgement was already rendered in Belgrade in the 'Religious Commission,' so everything needs to be completed by one attack!!! In this land of order and law, which isn't the case in present-day Yugoslavia, such a procedure is considered illegal. Therefore I demand that you proceed in accordance with Article 67, last paragraph, as it is mentioned in the Act of the Holy Synod of Bishops. In the event that Your Graces do not do so, I will avail myself of my legal rights as an American citizen to defend myself against such an investigating commission.

"In anticipation of your further lawful proceedings, and this first one was unlawful in every way, Your Graces' brother in Christ,—American-Canadian Bishop Dionisije."

BISHOP DIONISIJE

.....

prepared for publication July 15, 1963
St. Sava Monastery
Libertyville, Illinois.

(translator's certification omitted)

Certificate Number 11624

BOOK 477 PAGE 1

STATE OF ILLINOIS

OFFICE OF

THE SECRETARY OF STATE

PLAINTIFF'S EXHIBIT 9½
FOR IDENTIFICATION

To all to whom these Presents Shall Come, Greeting:

Whereas, a CERTIFICATE, duly signed and acknowledged, has been filed in the Office of the Secretary of State, on the 8th day of September A.D. 1927 for the organization of the

SERBIAN EASTERN ORTHODOX DIOCESE COUNCIL FOR UNITED STATES AND CANADA

under, and in accordance with the provisions of "AN ACT CONCERNING CORPORATIONS" approved April 18, 1872 and in force July 1, 1872 and all acts amendatory thereof, a copy of which certificate is hereto attached;

Now, Therefore, I, LOUIS L. EMMERSON, Secretary of State of the State of Illinois, by virtue of the powers and duties vested in me by law, do hereby certify that the said

SERBIAN EASTERN ORTHODOX DIOCESE COUNCIL FOR UNITED STATES AND CANADA

is a legally organized Corporation under the laws of this State.

In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois. Done at the City of Springfield, this 8th day of September A.D. 19 27 and of the Independence of the United States the one hundred and 52nd.

Louis L. Emmerson

SECRETARY OF STATE.

EXHIBIT A

September 7, 1927

Hon. Louis L. Emmerson,
Secretary of State,
Springfield, Illinois

IN RE: Serbian Eastern Orthodox Diocese
Council for United States and Canada

Dear Mr. Emmerson:

Referring to your letter of June 27th submitting certificate of application for charter named above.

This is to advise that investigation has been made and the proposed work meets with the approval of this department.

Certificate is returned herewith, together with check for $10.00 to cover incorporation fee.

Your very truly,
DEPARTMENT OF PUBLIC WELFARE
By: *Roy James Battis*
Superintendent of Child Welfare

ZR

STATE OF ILLINOIS,)
) ss.
COOK COUNTY,)

PAID SEPT. 8, 1927
$10.00 F.T. FEE $10

To LOUIS L. EMMERSON, Secretary of State:

We, the undersigned Lazar W. Saric, Sam Vujnovich, Tomo Martinovich, George Palandech, Eli N. Pochucha, citizens of the United States, propose to form a corporation under an Act of the General Assembly of the State of Illinois, entitled, "An Act concerning Corporations," approved April 18, 1872, and all acts amendatory thereof; and for the purpose of such organization we hereby state as follows, to-wit:

1. The name of such corporation is SERBIAN EASTERN ORTHODOX DIOCESE COUNCIL FOR UNITED STATES AND CANADA.

2. The object for which it is formed is to maintain a home for orphans and/or dependent children and to provide for their maintenance and education, and to maintain a Monastery of the Serbian Eastern Orthodox Church for United States and Canada.

3. The management of the aforesaid COUNCIL shall be vested in a board of Twenty-Three (23) Trustees.

4. The following persons are hereby selected as the Trustees to control and manage said corporation for the first year of its corporate existence, viz.:

NAME	Address	
George Palandech	536 S. Clark Street	Chicago, Illinois
Rev. A. Popovitch	4021 Elm Street	Indiana Harbor, Ind.
Rev. John Krajnovitch	907 Broad Street	Johnstown, Pa.
Rev. Dusan Trbuhovitch	1005 East Kirby Ave.	Detroit, Michigan
Rev. S. Balaban	1408 S. 11th Street	St. Louis, Mo.
Rev. Z. Ristanovitch	50 S. Bethany Street	Kansas City, Kan.
Ivan Vucetich	2251 Irving Park Blvd.	Chicago, Illinois
Rade Lazarevitch	1113 N. Lawler Street	Chicago, Illinois
Lazar Saritch	3448 Guthrie Street	Indiana Harbor, Ind.
Simo Vujnovitch	3802 Hemlock Street	Indiana Harbor, Ind.
Ilija Pochucha	9858 Commercial Ave.	So. Chicago, Ill.
Simo Shakota	3756 West Division St.	Chicago, Illinois
Trivo Bjelajac	498 Clinton Street	Milwaukee, Wis.
Savo Pavlica	401 North Lawn Street	Kansas City, Kan.
Milos Savorolac	6507 St. Aubin Ave.	Detroit, Michigan
Mike Rebich	c/c Rev. Smiljanich 789 Franklin Avenue	Woodlawn, Pa.
George Kovacevitch	1912 S. 12th Blvd.	St. Louis, Mo.
Kosta Ellesin	c/o George Ellesin 521 Lafayette Building	Detroit, Michigan
Tomo Martinovitch	731 Van Buren Street	Gary, Indiana
Simo Vrlinich	524 4th Avenue	Pittsburgh, Pa.
Janko Vukobratovitch	907 Broad Street	Johnstown, Pa.
M. I. Pupin	1 West 72nd Street	New York, N.Y.
Rt.Rev. Bishop Mardary	Hotel Ambasador 1300 North State St.	Chicago, Illinois.

STATE OF ILLINOIS, } ss.
COOK County, }

BOOK 477 PAGE 5

I, Dumas V. McFall a Notary Public in and for the County and State aforesaid, do hereby certify that on this 17th day of June, A. D. 1927, personally appeared before me

Lazar W. Saric, Sam Vujnovich, Tomo Martinovich, George Palandech and Eli N. Pochucha

to me personally known to be the same persons who executed the foregoing certificate, and severally acknowledged that they had executed the same for the purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year above written.

(Seal Here) (SEAL) Dumas V. McFall Notary Public.

9773859

STATE OF ILLINOIS } SS. NO.
COOK COUNTY }
FILED FOR RECORD

1927 SEP 10 AM 9 57

AND RECORDED IN BOOK 477 PAGE
RECORDER
Joseph F. Haas

FILED
SEP - 8 1927
Louis L. Emmerson
SEC'Y. OF STATE.

State of Illinois } ss. No. 500794
Dale County }
Filed for record AUG 23 A. D. 1951 at 11:00 o'clock P. M. and duly recorded in Book 12 of Corporate Page 271
Howard L. Scott
Recorder

CERTIFICATE

...—The Constitution provides that all ... "be paid in advance into the State ...ry."

...10.00.

...t all societies, corporations and associa... not for pecuniary profit, hereafter organ... under the laws of the State of Illinois shall ... the Secretary of State before they shall ... a certificate of incorporation, a fee of ...

...ec. 103, p. 1325, Hurd's Revised Statutes of Illinois.

CORPORATION DEPT.
SEP - 8 1927
COMPARED BY
XX and FP

This Page Not to be Recorded
By Nelson & McFall
Date 9/10/27 192

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Supreme Court, U. S.
FILED
DEC 11 1975
MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-292

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA,
a Religious Body, et al.,

Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,

Respondents.

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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

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Filed August 26, 1975
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In the
Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-292

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA,
a Religious Body, et al.,

Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

PLAINTIFF'S EXHIBIT 92

Certificate Number 95152 PLAINTIFF'S EXHIBIT 92 FOR IDENTIFICATION

STATE OF ILLINOIS
OFFICE OF
THE SECRETARY OF STATE

Amended Complaint Exhibit 4

To all to whom these Presents Shall Come, Greeting:

I, CHARLES F. CARPENTIER, Secretary of State of the State of Illinois, do hereby certify that the following, and hereto attached is a true photostatic copy of the Certificate of Incorporation of SERBIAN EASTERN ORTHODOX DIOCESE FOR UNITED STATES OF AMERICA AND CANADA,

the original of which is now on file and a matter of record in this office.

In Testimony Wherof, I have hereunto set my hand and cause to be affixed the Great Seal of the State of Illinois. Done at the City of Springfield this 15th day of August A.D. 19 63

Charles F. Carpentier
SECRETARY OF STATE

Rec. No. 413546, filed May 15th A.D. 1935 at 11:00 o'clock A.M.

"CERTIFICATE OF INCORPORATION
OF
SERBIAN EASTERN ORTHODOX DIOCESE
FOR UNITED STATES OF AMERICA AND CANADA

STATE OF ILLINOIS)
) ss.
COUNTY OF LAKE)

I, RIGHT REV. BISHOP MARDARY, Bshop of the Serbian Eastern Orthodox Church for the Diocese of United States of America and Canada, and having jurisdiction agreeably to the laws of the Serbian Eastern Orthodox Church over said Diocese, by virtue of his appointment as Bishop of said Diocese by His Holiness, Patriarch Varnava, of Belgrade, Jugo-Slavia, do hereby solemnly affirm that the following persons, namely:

Rev. Z. Restanovich of Libertyville, Illinois.
Mr. M. Radakovich, of Milwaukee, Wisconsin.
Mr. Dushan Silaski, of Akron, Ohio.
Very Rev. Daniel Kozomara, of Clairton, Pa.
Mr. Bozo Martinovich, of Gary, Indiana.
Mr. Disto Nogulich, of Chicago, Illinois.
Rev. George Popovich, of Chisholm, Minnesota.

were nominated and appointed Trustees of the Serbian Eastern Orthodox Church for the Diocese of United States of America and Canada according to the usages, customs and canons of said Serbian Eastern Orthodox Church, by the Right Rev. Bishop Mardary, Bishop of said Serbian Eastern Orthodox Church, under and by virtue of Sections 46a, 46b, 46c, 46d, 46e, 46f, 46g and 46h, of Chapter 32," being an act entitled "An Act Concerning Corporation",

approved April 18, 1872, in force July 1, 1872, and said Church adopted as the corporate name "Serbian Eastern Orthodox Diocese for United States of America and Canada."

Bishop Mardary.

SUBSCRIBED AND SWORN TO before me this 10th day of May, A.D. 1935.

Muriel Varney
Notary Public.

Muriel Varney,
Notary Public,
Lake County, Ill.

STATE OF ILLINOIS)
) SS:
COUNTY OF LAKE)

I, HOWARD L. SCOTT, Recorder of Deeds, in and for said County, in the State aforesaid, DO HEREBY CERTIFY the foregoing to be a true and correct transcript, from the records of my office, of the record of an instrument in writing, which was filed for record on the 15th day of May A.D. 1935 and duly recorded in Book "O" of Articles of Incorporations, on page 584, as Document Number 412544.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Recorder at my office in Waukegan, in said County this 15th day of May A.D. 1935.

(SEAL)

Howard L. Scott
RECORDER.

Filed for record in the office of the Secretary of State of Illinois May 22, 1935, at 10:00 o'clock A.M., and recorded in Book 65, page 27.

EDWARD J. HUGHES,
Sec'y. of State

UNITED STATES OF AMERICA,)
) ss.
STATE OF ILLINOIS,)

OFFICE OF SECRETARY.

I, EDWARD J. HUGHES, Secretary of State of the State of Illinois, do hereby certify that the foregoing CERTIFICATE OF INCORPORATION was filed for record in the office of the Secretary of State of the State of Illinois on the 22 day of May A.D. 1935, at 10:00 o'clock A.M., and duly recorded in Book No. 65 of Railroad Records, at page 27.

IN WITNESS WHEREOF, I hereto set my hand and affix the Great Seal of State, at the City of Springfield, this 23 day of May A.D. 1935.

Edward J. Hughes
Secretary of State.

PLAINTIFFS' EXHIBIT 93

CERTIFICATE OF INCORPORATION
OF
SERBIAN EASTERN ORTHODOX DIOCESE
FOR THE
UNITED STATES OF AMERICA AND CANADA
AN UNINCORPORATED CHRISTIAN ORTHODOX
CATHOLIC CHURCH OF THE EASTERN
CONFESSION, PURSUANT TO ARTICLE 5-B OF
THE RELIGIOUS CORPORATION LAW

WE, the undersigned, being six lay members of the Serbian Eastern Orthodox Diocese for United States of America and Canada, an unincorporated Christian Orthodox Catholic Church of the Eastern Confession, for the purpose of incorporating the same pursuant to Article 5-B of the Religious Corporation Law, and all being persons of full age, at least two-thirds of us being citizens of the United States, and at least one of us being a resident of the State of New York, hereby certify as follows:

FIRST: The corporate name by which such Church shall be known is: Serbian Eastern Orthodox Diocese for United States of America and Canada.

SECOND: The County, town, city or village where its principal place of worship is or is intended to be, is located in the County, City and State of New York.

IN WITNESS WHEREOF we have executed and acknowledged this certificate this 22nd day of December 1942.

/s/ HELEN L. FROTHINGHAM
/s/ VLADIMIR LAZOVICH
/s/ BOZO MARTINOVIC
/s/ MILEN RADAKOVIC
/s/ DUSHAN D. SLIASHKI
/s/ DUSAN B. TRIPP

NEW YORK SEAL
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PLAINTIFF'S EXHIBIT 96
(SEAL)
SERBIAN EASTERN ORTHODOX DIOCESE
For The United States of America and Canada
SERBIAN ST. SAVA MONASTERY
Libertyville, Ill.

TO ALL CLERBY AND TO ALL CHURCH-SCHOOL COMMUNITIES OF SERBIAN ORTHODOX DIOCESE FOR THE UNITED STATES AND CANADA

The diocesan ecclesiastical court of the Serbian Orthodox Diocese of America and Canada at its meeting held on March 18, 1965, in the diocesan office at Libertyville, Illinois has decided that a call (invitation) should be sent to all clergy of both orders, and to all church-school communities, who have separated themselves from this Diocese, and have joined the imposed Bishop—to return under the wing of their old and only Diocese of America and Canada.

This call is made in the spirit of the 17th rule of the Fourth Ecumenical Council of Halkidonu; the 6th rule of the First Ecumenical Council; 120th rule of the Eighth Council at Carthege, relative to Article 3 of our Diocesan Constitution.

Lake County Court of Illinois, at Waukegan, in its final judgment of December 31, 1964, is stating: "The Constitution of American-Canadian Diocese is fully valid legal document, received, accepted and recognized as the fundamental law of the Diocese during 36 years, not only on the part of members of Serbian Orthodox Church in U.S.A. and Canada, but also on the part of the Holy Synod and the Holy Council of Bishops of the Serbian Orthodox Church in Belgrade. On May 10th, 1963, the Holy Council of Bishops of Belgrade has brought a resolution about creating Midwestern American Diocese, Western American Diocese, Middle Eastern American-Canadian Diocese, completely passing over clear provisions of the Constitution of the American-Canadian Diocese, which prescribes that changes and supplements of the Constitution are made exclusively at the Diocesan Church Lay Sabors. When the Holy Council of Bishops in Belgrade have roughly stepped over the Diocesan Constitution, its (Holy Council's) Jurisdiction has stopped to exist. . . . The Court has settled that the Diocese, from its foundation, up until May 10, 1963, has autonomously, according to its Constitution, performed all its Diocesan activities, regarding: Church, school and other institutions, of all funds and property, without any interference on the part of the Hierarchy in Belgrade."

This decision of Diocesan ecclesiastical court has been accepted by the diocesan Executive board, on March 20, 1965, and together once more call upon all clergymen and church-school communities, which have without knowledge or permission of the Bishop and diocesan authorities, sepa-

rated from this Diocese and joined the three imposed Bishops,—to return under the wing of their Diocese, to recognize the Diocesan Constitution and be led by the same in their life and work, so that they can be in our unity and enjoy all rights which is given to them by the Constitution of our Diocese. The three so-called new Diocese are not registered nor recognized by the American authorities.

The clergy of both orders are warned as are all church-school communities, to continue sending their monetary obligations to the Diocese and Diocesan pension funds, so that they can use benefits, which will result therefrom.

All Church-School communities are notified that, according to our suggestion and according to newest decision of the American Secretary of Treasury of March 3, 1965, T:R.EO-S-OCS—All church-school communities—which are under jurisdiction of this Diocese are freed from government taxation.

Those, who disregard this call shall suffer the legal consequences.

The time to return under the wing of the Diocese, is one month and a half from the day of reception of this *Decision.*
March 22, 1965.

Archimandrite Diuibrije
Secretary of the Ecclesiastical
Court and the Executive Board.

PLAINTIFFS' EXHIBIT 98

SERBIAN EASTERN ORTHODOX DIOCESE
FOR THE UNITED STATES OF AMERICA
AND CANADA
SERBIAN ST. SAVA MONASTERY
LIBERTYVILLE, ILL. U.S.A.

September 3, 1968

Mr. Nick L.H. Elchinoff
Attorney At Law
1720 El Camino Real
BURLINGAME, CALIF. 94010

Dear Sir:

We received Your letter of July 23rd, 1968, addressed to our Diocese as well as to my own attention, in regard of the requirement of pension of Very Rev. Dushan Shukletovich.

I am sorry to inform You that Very Rev. Dushan Shukletovich lost his right to receive pension from our Diocesan Pension Fund according our Pension Fund By-Laws which were confirmed by the Holy Synod of Belgrade, since he passes to another Diocese and accepted to be a parish priest of it. Moreover he was warned to continue his annual payments to our Pension Fund which he neglected.

Enclosed is our warning letter which You could hand to him and he might translate it in English for You.

I thank You
Yours truly
(signed) Rt.Rev. Bishop Dionisije

PLAINTIFFS' EXHIBIT 101

SERBIAN EASTERN ORTHODOX DIOCESE
for the United States of America and Canada
Serbian St. Sava Monastery
Libertyville, Ill.
U.S.A.

April 6, 1961.

To The Very Reverend Archpriest
Fr. Doushan Shoukletovich,
San Diego, California.

On basis of the petition of the Very Reverend Archpriest-Stvarophor, Fr. Doushan Shoukletovich, a member of the Diocesan Court and pastor in Gary, Indiana; and at the recommendation and opinion of the Very Reverend Archpriest, Fr. Branko Kusonjich, a member of the Ecclesiastical Court and in charge of the Pension Fund; and on basis of the Decision of the Diocesan Ecclesiastical Court of January 17, 1961, under point 3, and within the intent of paragraphs 6, 7 and 10 of the Regulations of the Pension Fund for the Clergy of the Serbian Orthodox American-Canadian Diocese, herewith we make the

DECISION

that the Very Reverend Archpriest Stavrophar Fr. Doushan Shoukletovich is hereby pensioned, and that starting with January 1st, 1961, he be paid a monthly pension from the Pension Fund in the amount of $38.00. The copy of this DECISION is forwarded to the Very Reverend Fr. Branko Kusonjich, so that, on the strength of this Decision, Fr. Shoukletovich be paid the unpaid pension so far, and that from now on in the future he be paid his pension regularly on time each month.

With blessing,
American-Canadian Bishop
(signed) Dionisije.

PLAINTIFF'S EXHIBIT 106

TRANSLATION

Minutes

Of the DIOCESAN PLENUM of the Serbian Orthodox Diocese for America and Canada held in St. Sava Monastery, Libertyville, Illinois JUNE 6, 1963.

PRESENT: His Grace the American-Canadian Bishop Dionisije, Archimandrites Firmilian Ocokoljich, Dimitrije Balach, Irinej Kovacevich, Svetozar Maravich, Dr. Urosh Seferovich, Nikola Stepanovich, Archpriests: Milan Brkich, Vladimir Mrvichin, Djuro Vukelich, Jovan Marcetich, Miodrag Mijatovich, Miodrag Djurich, Abbot Mitrofan Kresojevich, Priests: Velimir Kovacevich, Alexender Dimitrijevich. Members: Ilija Bulatovich, Milosh Vidakovich, Bob Vujovich, Milan Drobac, Pane Jerich, Punisha Kralj, Milosh Konjevich, Rade Kordich, Borivoje Lukich, Bogoljub Markovich, Radoljub Milojkovich, Jovo Pavich, Luka Pecel, Todor Polich, Milan Radakovich, Dr. Djuro Radojevich, Vaso Ranich, Jovan Tesanovich, Trisha Simich, Miodrag Cvetkovich, Nikola Cabraja, Archpriest Pavlovich sent his proxy to be represented by Proto Mrvichin and Obren Cuckovich gave his proxy to Todor Polich.

His Grace the American-Canadian Bishop Dionisije opened the meeting with a prayer at 10:30 A.M. and informed the plenum of the reason for the summoning of this meeting.—

—which by his authorization was called by the Vice presidents of the Diocesan Council, Steven Maravich, Dr. Seferovich, the Secretary of the Diocese, Archimandrite Dimitrije Balach and the legal advisor, Nikola Stepanovich.

The decisions of the Holy Synod and the Assembly of bishops of May 10 of this year were read in which they announce that His Grace Bishop Dionisije was suspended from the duties as bishop of some Mid-Western American Diocese; that he is placed under suspension of all priestly functions until final judgment, that Archimandrite Firmilian is appointed as Administrator of the Diocese and finally, that the American-Canadian Diocese is dissolved and in its place three new ones were organized and that for one Archpriest Stevan Lastavica is elected as bishop, well for the other two, the Messers Firmilian and Udicki were appointed as administrators. The names of these new dioceses are: The Eastern-American and Canadian, the Mid-West American and the Western-American. This means: the old Diocese was dissolved, the old bishop dissolved, three new dioceses established, a new bishop Lastavica elected, and two administrators appointed for the other two dioceses. The number of these Synodal decisions are: #1725 and #1726 of May 10 of this year. The question is: whether the Diocesan plenum accepts this considering that this American-Canadian Diocese nor any one of its bodies was not consulted in these decisions of the Assembly and Synod. His Grace emphasized that he carried out the decision of the Diocesan Church National Assembly of 1956 and 1960 i.e., he made the corresponding proposals, however, this is not related to the proposals of our two Assemblies but rather even changed in the opposite direction, contrary!

His Grace Bishop Dionisije then called upon brother Stevan Maravich to preside further over the meeting. Brother Maravich, the first Vice-president declines the honor, expresses his satisfaction that there are so many of us gathered here at the meeting. Mr. Maravich states that the meeting is very important, and a great task to

resolve, and he recommends that the Second Vice-president, Dr. Urosh Seferovich preside over the same because of the importance of the language in which the meeting will be conducted. He says that Dr. Seferovich will conduct it easier.

Dr. Urosh Seferovich accepts to preside over this meeting since the legal counselor, Attorney Nikola Stepanovich had established that the meeting was properly summoned, that is has a quorum, thirty-six members, with two proxies —38 members. (See Article #138 of the Constitution of our Diocese). Dr. Seferovich cautioned all the members of the plenum of the fateful significance of the decisions of today's plenum and therefore recommends the discussion be conducted calmly and reasonably having in mind the unity the good, and the fate of our church outside the borders and our Serbian people in the USA and Canada and even the whole free world. He calls upon the members of the plenum to express their opinions concerning these difficult questions and even more difficult solutions from Belgrade of the Holy Assembly and Synod of Bishops.

(For the sake of the record—we are having pains to remove from the meeting the uninvited and boring priest, Velimir Petakovich. He does not want to leave the hall, he says no one has the right to order him out, except only his new bishop, Firmilian. Messer Firmilian recommends to him that he go outside but he continues to hesitate and provoke, wanting us to throw him out by police. Finally, he left the hall.)

Almost all members of the plenum take part in the discussions. The best solution is being sought. It is the opinion that the plenum cannot accept these decisions but rather our next Tenth Diocesan Church National Assembly.

Archimandrite Firmilian reads the letter which he received from the Holy Synod of bishops, he states that he did not seek this, and that the Mother Church so ordered and he must comply with the order of the Holy Synod and the Assembly of Bishops. Therefore he seeks from His Grace Bishop Dionisije that he immediately surrender to him the duties of bishop, the archives, the monastery and everything which he is "entitled" to. He seeks from us members of the plenum to exert influence upon His Grace Bishop Dionisije that he surrender the duty and to help him in the new and responsible duties of administrator of the diocese and as the diocesan plenum to peacefully accept the decisions of Belgrade, which are under discussion.

Archimandrite Dimitrije Balach, secretary of the Diocese speaks and beseeches Bishop Dionisije not to surrender the duties because that conflicts with Article #111 of the Constitution of the Serbian Orthodox Church.

Dr. Djuro Radojevich emphasizes that His Grace Bishop Dionisije has not been investigated, has not been given a hearing, has not been given a trial, has not been judged—in the usual manner as the Constitution and General rule require, and he thinks that the Bishop should remain at his duties, until the gathering of our Diocesan Assembly which has the right to render changes and ammendments to our Constitution and which alone is competent to accept or reject the decisions concerning the division of our diocese and the suspension of the bishop without a trial and judgment.

Archpriest Milan Brkich seeks that Bishop Dionisije submit to the decisions of Belgrade emphasizing that the Diocesan National Church Assembly cannot help him in any way because the bishop is elected and appointed by the Holy Assembly of bishops and not the people, and therefore the people cannot judge him but only the bishops.

The priest Aca Dimitrijevich agrees with Dr. Radojevich and Archimandrite Balach and appeals to Bishop Dionisije not to surrender the duty, emphasizing that he is a great anti-communistic fighter, and that this "trap" was set for him in Belgrade. Father Dimitrijevich further explains how the Synodal "proclamation" of the concerned mother arrived to all and everyone, and to unknown grannies in the colonies, but Bishop Dionisije was not informed of this on time. Not only that he wasn't judged, but wasn't even given a hearing but the judgment decree is read by grandmothers in their homes who wonder about this which happened all at once among us! He stated that he had an opportunity to live under Communism in Yugoslavia, of his difficult life, how religion was thrown out of the schools, the teaching of St. Sava thrown out, how the OZNA elects the patriarchs and emphasizes that he remains as an anti-communist fighter and remains together with His Grace Bishop Dionisije.

Todor Polich states that today's meeting cannot resolve this question cannot accept the decisions, concerning the division of the Diocese, but that the Church National Assembly is competent for this so let the Assembly resolve it. Punisha Kralj and many others agree with him, who desire the unity of this diocese.

Jovan Tesanovich thinks that it is time to turn over the administration of the diocese of Messer Firmilian and let him lead it as he can and let us help him.

(During the time when the Archipriest Djuro Vukelich spoke, Archmandrite Firmilian reacted sharply and exclaimed running towards him so that it appeared as if he were going to hit him. Archpriest Vukelich says that he was speaking officially and believes that he didn't insult Firmilian in any way).

His Grace Bishop Dionisije said that he does not feel guilty in anything: that he cannot agree with the dissolu-

tion of the American-Canadian Diocese, does not recognize the same, or does he recognize the establishing of three new ones nor their administrators, all up until the meeting of our Church National Assembly.

The legal counselor Nikola Stepanovich also spoke in the spirit and agrees that this is a political act. Mr. Svetozar Maravich agrees with Mr. Stepanovich and he is of the opinion that it be left to the competence of our Church Assembly.

Attorney Milan Drobac reads some excerpt from some law and states that his state of Wisconsin recognizes the Patriarchate and therefore all the decisions from the Patriarchate. In support of this opinion, Archpriest Brkich also speaks.

Archpriest Mrvichin says that there are distinctions in the consequences of our decisions today; nothing will happen to the civilians nor can any one do them harm, but for us who are in priestly orders, if we vote against there will be great harm because we could lose our service and positions and even could be defrocked!

Milosh Vidakovich reminds us of the sorrowful days from the Concordat struggle in Jugoslavia. The Church then was victories over the party and the regime's politics and recommends to Bishop Dionisije to continue this work and considers that we also will conquer the politics of Tito's religious Commission even if we have to cut ties with the Patriarchate, which is under Communist slavery.

Attorney Nikola Stepanovich adds that the administrators not be recognized.

Todor Polich moves that all this be left for decision to our next Church National Assembly. In order for all this to be resolved as soon as possible, he moves that the Assembly to be held earlier then was scheduled. Archpriest Brkich seconds the motion. It was unanimously decided:

that the Assembly be held on August 6, 7, 8 and 9 of 1963 at St. Sava Monastery in Libertyville. Jovo Pavich also seconds this motion.

Archpriest Milan Brkich speaks about how the right of vote should be taken away at the Assembly from: The SNF, SND, SSF and the KSS federation. The plenum reject this, because that is the right of the Assembly to say who has the right and who doesn't. Archimandrite Firmilian stands and declares that he expected the full cooperation of Bishop Dionisije and that he would turn over the duties in a peaceful manner. Since Bishop Dionisije did not do this, then he, Firmilian does not consider Bishop Dionisije as his competent bishop any longer because he does not submit to the highest body of the Serbian Orthodox Church which gave him the rank and position of bishop. (Firmilian leaves the hall remarking to the plenum "you are responsible for this kind of decision, you will be sorry," Leaving with Firmilian were the archpriests: Mijatovich, Brkich, Djurich, with the remarks that they are no longer members of the Diocesan Council and will not come again to a meeting. Somebody told them: write your resignations!)

The priest Alexender Dimitrijevich moves that a letter or telegram be sent to the Holy Synod of Bishops and to seek a special permission which would investigate the charges against our Bishop Dionisije. The Commission should come at the expense of the accusers. The results of the works of the Commission should be rendered prior to the Assembly. Brother Konjevich seconds the motion. The Plenum adopted this with two opposing votes (M.V. and M.D.).

Upon the request of some members, the text of both decisions should read as follows: "The Plenum of the Serbian Orthodox American-Canadian Diocese declares that this plenum is not competent either to accept or reject the question of the division of the American-Canadian Diocese into three dioceses and because of this, the entire matter will be transmitted to the Church-National Assembly, which because of the emergency of the case is summoned for the 6, 7, 8, and 9 of August of this year in St. Sava Monastery in Libertyville, in the place of the earlier scheduled one of the 14th, 15th and 16th of October and in accordance with the rules and conclusions of the last Church-National Assembly in Sept., 1960. This decision was unanimously adopted."

2. "Upon the motion of priest Alexander Dimitrijevich, seconded by Milosh Konjevich, it was decided to send a letter to the Holy Synod of Bishops with the warmest request that they send as soon as possible a Synodal investigating commission, at the expense of the accusers, which would and conclude the question of charges against our Bishop Dionisije since in accordance with the above decision, no changes in the administration of this diocese can be made until the decision of the scheduled Church National Assembly. This point is accepted by all present, except two who didn't vote against."

After this Bishop Dionisije said that his Majesty King Peter II will visit the monastery on July 4th of this year and asked the Plenum how we should welcome him? Decision: To show H.M. all honors which belong to him To entrust safety measures to the local police to brother Djoko Marich, the Club Karageorge, while in behalf of

the Diocese, the head should be Micho Djordjevich who is "a deputy Sheriff" anyway and who lives near the monastery. Because of the great mass of people, a banquet cannot be held as it should be, therefore let there be a dinner for the king in the episcopal residence, and the king will participate in the program in the park.

With this the agenda was exhausted and the meeting was closed with prayer at 7:00 P.M.

P.S. There was a discussion about the consecration of the new church in Cleveland. His Grace appointed Archimandrite Dimitrije Balach, secretary of the Diocese to perform the so-called "priestly consecration of the Church" in his name. The president of the Church-School Congregation Trisha Simich didn't say anything. Svetozar Maravich is to represent the Diocesan Council, if he can go.

president
/s/ *Bishop Dionisije*

/s/ *Arch. Dimitrije*
Secretary: Archimandrite Dimitrije

PLAINTIFFS' EXHIBIT 108

(Photocopy certification omitted)

FILED July 2, 1962

ARTICLES OF INCORPORATION OF ST. SAVA CHURCH AND EDUCATIONAL MISSION OF THE SERBIAN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned, do hereby voluntarily associate ourselves together for the purposes of forming a non-profit corporation under Part One, Division Two of Title One of the California Corporation Code.

WE HEREBY CERTIFY AND DECLARE:

ARTICLE I

That the name of the said non-profit corporation is and shall be:

ST. SAVA CHURCH AND EDUCATIONAL MISSION OF THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA

ARTICLE II

That the purposes for which this corporation is formed are as follows:

A. The specific and primary purposes are:

1. To conduct, maintain and operate charitable, educational and religious facilities for members or adherents of the Serbian Eastern Orthodox faith, and others;

2. To promote and maintain activities commensurate and consistent with the ideals and teachings of the Serbian Eastern Orthodox faith; and shall be in such matters under the direction of the Serbian Orthodox Diocese of the United States and Canada;

3. To operate and maintain a summer church camp for children;

4. To operate and maintain a school for religious and educational purposes;

5. To operate and maintain a home for the aged.

6. To operate and maintain a home for orphaned children.

7. To provide and operate monastic facilities.

8. To provide and operate facilities for recreation and Christian fellowship.

B. The other and subordinate purposes are:

1. To organize a mission and generally to do all acts and things necessary or convenient to conduct and carry on the purposes for which the said ST. SAVA CHURCH AND EDUCATIONAL MISSION OF THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA is organized, and to that end to lease, buy, sell, exchange and possess real or personal property, and mortgage, lease or hypothecate real or personal property, to enter into contracts of all kinds with its members and other persons, and to collect

fees, dues, donations of money, or any other real or personal property for the purpose of creating a fund to carry out the above objects, in accord with its By-Laws.

2. To exercise all of the powers provided for such corporations under the corporation laws of the State of California.

3. To do generally every and all things and acts that shall be deemed necessary, convenient, and useful for carrying out and accomplishing the business, objects and purposes of this corporation.

4. To engage in and support the creation of scholarship funds, and to provide reasonable rules and regulations for participation in and to such funds, as well as the methods of raising such funds.

ARTICLE III

That this corporation is not authorized to issue shares of stock and is a corporation which is not formed with a view to and which does not contemplate pecuniary gain or profit to the members thereof.

The property of this corporation is hereby irrevocably dedicated to charitable, educational and religious purposes and upon the liquidation, dissolution or abandonment of this corporation will not inure to the benefit of any private person except a fund, foundation or corporation organized and operated for charitable, educational and religious purposes.

ARTICLE IV

That the principal office for the transaction of business of the corporation is to be located in the County of Amador, State of California.

ARTICLE V

That the number of directors of this corporation shall be determined by the by-laws of this corporation.

That the names and addresses of the persons who are to act in the capacity of directors until the selection of their successors are as follows:

Names	*Addresses*
Rt. Rev. Bishop Dionisije,	St. Sava Monastery Libertyville, Illinois
Theodore P. Polich	770 Chaucer San Marino, California
V. Rev. Vladimir M. Mrvichin	2511 W. Garvey Ave. Alhambra, California
Luka Pecel	13043 Addison St. Sherman Oaks, California
Obren Cuckovich	312 Wayne Ave. Oakland, California
Sam Bogdanovich	2978 E. Robinson Ave. Fresno, California
V. Rev. Borivoj Pavlovich	630 E. 21st St. Oakland, California
V. Rev. Irinej Kovacevich	Post Office Box 1184 Jackson, California

ARTICLE VI

That by-laws for the government of this corporation may be adopted, amended or repealed in accordance with Diocese regulations, and the provisions of the by-laws of this corporation with respect to the changes and amendments thereof.

ARTICLE VII

That unless and until otherwise provided by the by-laws this corporation shall have no members, as such, other than the persons constituting its Board of Directors, and such persons, so constituting such Board of Directors, for the purpose of any statutory provision or rule of law re-

lating to non-profit corporations, shall be taken to be the member of this corporation and shall exercise all the rights and powers of members thereof. Upon the adoption of any by-law inconsistent in any respect with this Article Seventh, in all respects wherein such by-law is in conflict with the provisions of this Article Seventh such by-law shall prevail.

IN WITNESS WHEREOF, for the purpose of forming this non-profit corporation under the laws of the State of California, we, the undersigned, constituting the incorporators of this corporation, including the persons named hereinabove as the members of the first board of Directors, have executed these Articles of Incorporation this 21st day of May, 1962.

(signed) Rt. Rev. Bishop Dionisije
(signed) Theodore P. Polich
(signed) V. Rev. Vladimir M. Mrvichin
(signed) Luka Pecel
(signed) Obren Cuckovich
(signed) Sam Bogdanovich
(signed) V. Rev. Borivoj Pavlovich
(signed) V. Rev. Irinej Kovacevich

(notarization omitted)

State of California
FRANCHISE TAX BOARD
June 20, 1962

St. Sava Church and Educational Mission of
The Serbian Eastern Orthodox Diocese for
The United States of America and Canada
c/o St. Sava Mission
P.O. Box 1453
Jackson, California

Re: Exemption from Franchise Tax

Gentlemen:

It is the opinion of this office, based upon the evidence presented, that you are exempt from State franchise tax under the provisions of Section 23701d of the Revenue and Taxation Code, as it is shown that you are organized and operated exclusively as a religious organization.

Accordingly, you will not be required to file franchise tax returns unless you change the character of your organization, the purposes for which you were organized, or your method of operation. You are required to report any such changes immediately so that their effect on your exempt status may be determined.

Contributions made to you are deductible by the donors in arriving at their taxable net income in the manner and to the extent provided by Sections 17214, 17215, 1,216 and 24357 of the Revenue and Taxation Code.

If your organization is not yet incorporated and has not yet qualified to do business in California, this approval will expire unless incorporation or qualification is completed within thirty days.

Very truly yours,
FRANCHISE TAX BOARD
John J. Campbell
Executive Officer
By James T. Philbin (signed)
Associate Tax Counsel

JTP:ef
cc: Secretary of State
D*

PLAINTIFFS' EXHIBIT 109

ECCLESIASTIC COURT
OF THE SERBIAN ORTHODOX DIOCESE IN THE U.S.A. AND CANADA

Serbian Monastery of St. Sava, Libertyville, Illinois.

Regarding the Serbian priests which may not enter the Cemetery of the Serbian Orthodox Monastery of St. Sava in Libertyville, Illinois, of the Monastery Church and Monastery ground

The Ecclesiastic Court of this Diocese on its session of Febr. 11th, 1964, issued this:

"DECISION

Whereas the Founder of the Serbian Monastery of St. Sava, The Rt. Rev. Bishop Mardary has established beside the Church building a Cemetery for the Serbs, for those who are accepting Serbian customs and traditions and orthodoxy, for those from mixed marriages;

Whereas the Founder of the Monastery on the Church National Assembly of 1927 has declared, that he established the cemetery for the above purpose and Monastery itself to be a church, national and cultural center of the American Serbs including the celebration of the AMERICAN MEMORIAL DAY, FOURTH OF JULY and LABOR DAY;

Whereas some of our priests deserted the Serbian principle: 'For sacred Cross and golden Liberty' by accepting orders from the present Yugoslavia where our Serbian Church is enslaved by the communistic regime of Tito IT HAS BEEN RESOLVED:

ALL THESE PRIESTS ACCEPTING ORDERS, DECISIONS AND DIRECTIVES OF BELGRADE, ESPECIALLY THE DIVISION OF OUR DIOCESE AND OTHERS, ARE FORBIDDEN TO ENTER THE MONASTERY CHURCH, MONASTERY CEMETERY OR

MONASTERY GROUND FOR ANY CHURCH SERVICE WHICHSOEVER IT MAY BE.

This decision does not restrain any Serb to be buried in the Serbian St. Sava Monastery Cemetery. The monastery brotherhood will be always at their service."

(signed)
Very Rev. Archmandrite D. Balach
Secretary of the Ecclesiastic Court.

(Seal)

PLAINTIFFS' EXHIBIT 113A

Serbian Eastern Orthodox Diocese for U.S. of America and Canada
Serbian St. Sava Monastery
Libertyville, Ill.

August 4, 1963

Highly Honorable Protopresbyter
Vladimir Mrvichin, Vicar-General for California
Alhambra, Calif.

Highly Honorable Father Protopresbyter:

With this we inform you that you are dismissed from further duty of our Vicar-General for the West. We forbid you to use the name of our Diocese and the title of Vicar-General in the future.

At the same time we inform you that you are no longer our representative in the Committee for the Mission of Saint Sava, and therefore you cannot be present at any meetings of that Committee, or summon meetings of the Vicariate Committee.

We beg you to send us by return mail those things which we sent you in private.

All Church-School Congregations and clergy of your former Vicariate have been informed of our decision.

Serbian Orthodox
American-Canadian Bishop
(Signed) +Dionisije

PLAINTIFF'S EXHIBIT 115

MINUTES

OF THE DIOCESAN EXECUTIVE BOARD
HELD IN THE MONASTERY OF ST. SAVA
IN LIBERTYVILLE, ILLINOIS, NOVEMBER 23, 1962.

Present:

His Grace American Canadiana Bishop, Dionisije
Archimandrite Firmilian
Bishop Surogate
Svetodar Maravich, Vice President
Doctor Uros Seferovich, V. P.
Archimandrite D. Balach, Secretary
Nich Chibraia, Treasurer
Miograd Cvetkovich, Financial Secretary
Nicholas Stepanovish, Legal Advisor
Dr. George Ratovich
Milos Vivekobich
Milan Drobac
Bob Vuvovich
Proto M. Mijatovich
Proto M. Vjurich
Proto Milan Birkich
Father V. Kovacevich, Alternate for Proto Mrvichin

Present as a guest: Father Alexander Dimitrijevich

Promptly at 11:15 a.m., his Grace the Bishop, opened the meeting with prayer. Present at the meeting at the beginning was the Patriarchal delegation; Metropolitan Domaskin, Bishop Nikanor, and Archdeacon Branislav Petrovich.

His Grace greeted the delegation with the hope that they were well and had enjoyed their visit with us for these two and a half months. He declared the wish of the Diocesan Board to know whether the delegation was satisfied in its travels and its hospitality shown. He reminded

the Board how it had came to that, that the Patriarch, that is, the Synod sent the delegation, and this in conjunction with earlier requests and motions, that in the main three matters be disposed of.

a. The matter of the constitution of the Metopolia.
b. The matter of the selection of Vicar Bishops.
c. The matter of the Diaspora, the church outside the United States and Canada.

His Grace, Metropolitan Damaskin, gave his report in behalf of the delegation, which in the main is as follows; "We are joyful that to us has been given another opportunity to greet you, just as in September when we came. You, together with the Bishop, as hosts have the right to ask us as the guests how we feel. To God and all Serbian Saints be praised. We are well and satisfied and very much satisfied. There were many who spoke with misgivings of our coming, but our duty was such that we had to come. It was not easy. A new world, new circumstances, new people, new problems. Thanks to the solicitude of the host, his Grace Dionisije, first of all, our travels were made much easier because he took care of our tickets, the itinerary, quartering in hotels and so helped us much. We had thought that we would be in the monastery, and from the monastery to visit some few colonies in the locality. However, we covered the East, the West and the Middlewest. We feel that this was of great moral value for both us and you. The people greeted us with tears and we, with tears, looked upon our same Serbian people . . . who in this land maintain their Holy faith, their language, Church, and all that is ours. We sincerely are grateful to Bishop Dionisije and to you, the Diocesan Executive Board, for hosting us and making possible this trip.

You know that the Holy Bishop's Assembly decided that a solution was required of the problems in this Diocese.

Because of this, the Holy Bishops' Synod in the Spirit of this decision ordered the three of us to come and to make ourselves acquainted with the conditions and the problems you have, which are, as you know, in the main these three:

a. Matter of the Constitution.
b. Matter of Vicar-Bishops.
c. Matter of the Diaspora

The first week we had the opportunity and enough time to discuss with His Grace Dionisije all of this and we found much understanding and agreement as to how these discussions would take place in order that the necessary material would be gathered up which would be submitted to the Holy Bishops Synod and Assembly. We touched upon the matter of the Macedonian Orthodox Church. Not officially, but only informatively, I may tell you: The Holy Bishops' Assembly did not recognize the Macedonian Church. This is a political matter of the regime and power. The Church here was unable to resist much because this matter was more political than ecclesiastical. We would not wish that the government interfere in our church matters and important internal matters. Because of this, we request of you that you understand when we say the matter of your constitution should not be entered into. The change of your diocesan Constitution would mean a start into the matter of the Constitution of our Church and this we cannot allow, because the end of such *work* cannot be foreseen and we believe that the Church would suffer more harm than benefit from such entering into the Constitution. Yo may bring forth norms, regulations, and decisions just as you wish. for the benefit of this diocese and we shall rejoice and confirm these. However, do not postulate the matter of the Constitution. For example: It is known who selects and appoints a Bishop for a Diocese. This is done by the Holy Bishops' Assembly, the Assembly of Bishops and civilians neither select, nor appoint a Bishop. If we should touch upon the matter of the Constitution and give you the right, as civilians, to select a Bishop, then that right would be sought by those in the old country, civilians, to select and appoint Bishops. And if this should happen, God Forbid," then you know who would select and who would be chosen as a Bishop. But, we, the Church, shall not and must not allow this. In conjunction with this, we desire to add this: Do not discuss and debate internal Church matters publicly in the newspapers. All internal Church matters discuss and debate in private and not in the boulevard. There is the Post, let a courier be sent, but never the newspaper! A Croatian, a Roman Catholic, turns my attention to and was hurt because it happened amongst you.

Relating to Assistant Bishops; Vicars, I must recognize and this is very difficult that as of now Assistant Bishops; Vicars, are had only by the Patriarch, and not by a Diocesan Bishop. And, in Addition; here we talk of trustworthiness and untrustworthiness—the question is postulated as to whom the Vicar-Bishop would be obedient to: to his Bishop here, or to the Patriarch? Such a question cannot be postulated because it is known to whom the Vicar must be obedient. The Canons are in evidence, and it is known according to the Canons, who and what is a Vicar, and that a Vicar must be obedient to his jurisdictional Bishop. Aside from the question of trust and distrust, the question is postulated, "Where would the Vicars come from?": Whether from the Old Country or from here in America? Even this question is neither appropriate nor ideal because it creates suspician and distrust of the Episc-

opate in the Old Country. We have very educated and talented young Bishops there who know the English language. But, if, his Grade, Dionisije desires that the Vicar be from here in the United States of America, I would be in agreement with this, however, the Holy Bishops' Assembly shall give its decision, in this.

As regards South America, let His Grace, my Brother Dionisije, write an opinion to the Holy Synod or to his Holiness, the Patriarch: in the opinion, let him deliniate his fear that our people there will fall away. Let him deliniate why it is necessary that that area fall under the U. S. A. Finally, he knows how to write it, and I believe that his Holiness and the Holy Bishops Assembly, that is, the Synod, will give South America to the jurisdiction of this diocese. As regards the Diospora outside America and this Diocese, that is a delicate question, the Patriarch, personally, is taking care of this. There were some immediate questions, but the Patriarch sent his Vicar, Bishop Sava, who visited all the Church congregations in Europe and this matter is comparatively taken care of. Peace has been attained. If, his Grace, Bishop Dionisije, desires South America in his jurisdiction, let him write a motion and explain what importance and benefit this would be for the U. S. A.

As regards personal suggestions, I feel that I am not authorized to give them. However, to his Grace, Bishop Dionisije, I will in a friendly way, personally, tell what is good. I

I repeat; our trip is of great benefit and we, once again, thank his Grace, Brother Dionisije, and you, the Diocesan Executive Board, who have made possible this trip.

We saw the monastery, Shadeland, Jackson, many new holy Churches, the Clergy, the Choirs, the school children. It is evident that much has been done and is being done.

A great difference from 23 years before when I was the Diocesan Bishop here. Great material progress. I congratulate you! However, material success is not all. The duty of the Church remains: that Christian Spirit be strengthened, that a greater spirituality be attained. Because of this, I beg you, members of the Executive Board, help your Bishop, that the spiritual side of the Diocese be strengthened. All lesson books for schools which must be prepared, prepare. Don't spare your means. If, somewhere, there is a difference in the application of work in schools, bring in special inspectors who shall give aid that uniformity is attained in the entire territory of the Diocese.

Once again, thank God, Saint Sava, all Serbian Saints my Brother, Bishop Dionisije, and the Executive Board."

The Metropolitan was greeted with applause.

His Grace, Bishop Dionisije, spoke and wished that his declaration enter into the minutes, that he knows that no one else had written of the internal affairs of the Church in public except him. He states that he would not have written this willingly but had been forced to do so by the action of the Patriarch. When the Patriarch refused to accept the Diocesan delegation then he wrote this. He feels that the Patriarch should not refuse an individual, a courrier, much less a delegation. If the delegation has no right to be accepted at the Assembly, the Patriarch and Holy Synod could have accepted and heard them out.

Further, his Grace, Bishop Dionisije, speaks to the delegation, that he should not be looked down upon if he does not come to the sittings of the Assembly because as long as there is an athestic Communistic regime there, he will not go there; that is why he seeks that if he sends someone there, that they be accepted; his work in the maintaining of a national awareness in the Church in the U. S. A. he regards as his holy duty, though others might regard it as political.

If there are any charges, they should be sent to him for an answer, and if not for an answer, at least for his knowledge . . . so that he might see who is charging him and why . . . and what sort of persons these are in regard to the Church and land here. It is possible that he would take some of them to civil court and then the Patriarch would recognize who and what they are.

Metropolitan Damaskin, in short, said that his Grace is not punished because he has not come to the Assembly. Accordingly, it should be understood that he is not looked down upon in such circumstances; Insofar as the delegation of the Diocese was not accepted in Belgrade—he thinks that this was a mistake because it was thought that the delegation sought to go before the Assembly and, according to the Constitution, no one has entry to the Assembly except members of the Assembly and these are only Diocesan Bishops with the Patriarch. The Synod and Patriarch shall always accept courriers just as they accepted Proto Birkich this year. The Metropolitan, once again, emphasizes that internal letters of the Church are not settled in public. He feels that this is neither appropriate nor of benefit.

His Grace, the Bishop, gives the members of the Board the Opportunity to greet the delegation.

Milos Medakovich, in a lengthy talk, brought before the delegation the reasons why there is such a sizable emigation and what are the goals of this emigration. The main reason that there is a Serbian emigration is Communism in Yugoslavia; the purpose of the emigration is the liquidation of Communism in Yugoslavia. This is clear to all. This means that the emigration must hold the Serbian national awareness and a live and burning faith in God and Holy Orthodox. The Bishop of that emigration must be a man who is strong nationally and in faith. He

must be in the spirit of the emigration, that he might lead them in the right path. Thus, it is not easy to be a Bishop of this emigration and you over there in the land should know this we love and respect our holy Church, but we hate Communists and Communism. We understand how it is for you there and we believe that you know how it is for us and our Bishop here. We are with him and he is with us . . . and that is how we live and work. We believe that we are on the right path. He wishes the delegation a happy trip and pleasant recollection of the United States.

Proto Djurich asks what should be done with an Albanian Priest who recognizes no Bishop. His Grace, Bishop Dionisije, asks whether minor groups of other nationalities may be accepted into our Diocese. Archimandrite Firmilian asks for a directive as to Valerian Prifa. Svetovar Marovich asks about the new calendar.

Metropolitan Damaskin, in reply, says that all this should be written to the Holy Bishops' Synod and the Synod shall reply. Further, he talks about the new calendar. He mentions mixed marriages, Professor Milankovich, (his figuring of time), that both calendars are in error, etc. However, this is a matter which is not ripe for solution . . . and we are maintaining the old calendar.

Following this, the delegation, greeted by the Board, left the meeting—the meeting was adjourned for lunch—

His Grace opened the second session of the Board at exactly 3:00 o'clock p.m.

The secretary read the minutes of the last meeting which were accepted.

His Grace informs the Board that the Bishops' Surrogate Archimandrite Dr. Firmilian was selected as Pastor of the United Parishes of Pittsburgh, Pa. His Grace names him also as Chief of Educational Activities in our Diocese. He shall preside at meetings of the Educational

Board. Father Val Kovachevich remains in the position of Educational Advisor. The activity of the Educational Board shall depend on the two of them. Whenever it is necessary, his Grace, will eagerly give his opinion and necessary help to the Board. He also added that Archimandrite Udicki had no desire at all or wish to conform to coming to the Monastery in the duty of Educational Advisor and, because of this, he was relieved.

His Grace gives a report about SOTAYA and states that the main meeting will be in Pittsburgh, December 22nd, of this year and that he shall be present at the same together with Father Firmilian.

A letter is read from the CSC from New York which reports that it does not wish to pay the school fee for seminarians. DECIDED: To notify the Congregation that, in accordance with the decision of the National Church Assembly, they should pay it.

Letter is read from the CSC from Lorain which inquires as to what is the seminary fund and whether it is necessary to pay into the same. They seek to know who the students are. DECIDED: To reply that they should pay and who the students are.

The letter of Proto Bobrota, in behalf of the CSC of Midland, is read, which according to its content seems to protest that up to now the Diocesan dues were not doubled, on the basis of the decision of the Church National Assembly of 1960. DECIDED: To bring before the Diocesan Plenum, in February, 1963, for a jurisdictional decision.

Letter from the CSC of Lebanon, Pa, is read, which seeks to be classified as a Fourth and not a Third Class Parish, which would lower their Diocesan tax for them. DECIDED: They should send a petition in this regard to the Diocesan Assembly for confirmation, up to that time they are to pay as they have been classified.

A letter from the CSC of Canton, is read, that mail be sent in the English language. DECIDED: That they be sent a reply that both languages are official. They can write in the one they want, but if they get a letter from the Diocese in the Serbian Language they should seek a Priest who shall always translate to English.

A letter is read from the CSC of Monroe, which asks that they be forgiven from payment into the pension fund for the entire time when they had no priest up to May of 1956 and from then on they shall pay regularly. Also, they ask that they be forgiven payment into the seminarian fund, the quarterly collection, and school fees. DECIDED: To bring this up before the Diocesan Plenum.

A letter is read from the CSC of Cincinnati which seeks that they be forgiven their dues up to 1961 and that they shall pay from them. They say they had no priest and thus they had nothing. Now they have a Priest and already they have paid out their mortgage. DECIDED: To bring it up before the Plenum. Until then, they pay.

Also, a letter from the Board of the Clergy Association was read, addressed to the Church Court, regarding the handling of the pension fund. Since the pension fund is handled by the Church Court in accordance with special By-Laws, this letter is to be sent back to the jurisdiction of the Church Court. For the sake of those interested, it can be declared in the Minutes that the Diocese has its pension fund for the entire clergy who pay into the same and there is no pension fund of the clergy association. Accordingly, they should not tresspass their jurisdiction. Proto Mijatovich stated that he was at their meeting and that the letter is not in accord with what was decided.

A letter is read from the attorney from Meadville which states that the property transferral in Shadeland from the

Diocese to Shadeland will cost 1% and that the money should be forthcoming. It is to be paid from the Shadeland treasury.

A letter is read from Attorney Flannery which seeks a fee of ———$ for the transferral of the property from the former owner, his Grace the Bishop, to the new Owner, the Monastery of St. Sava. It is DECIDED THAT it be paid. The same attorney seeks $200.00 for the formulation of a petition and the gathering of necessary documents in order that the monastery be excepted from the payment of taxes. It is DECIDED that it be paid.

The legal advisor, Nick Stepanovich, makes a motion that the By-Laws of the Federal of KCC be accepted . . . as presented by the convention. Since Proto Marchecich, Proto Birkich, his Grace and Archimandrite Balach, worked on these By-Laws and the convention accepted them, then the Board unanimously accepts them for presentation to the next Assembly for approval.

Archimandrite Dimitrije, in short, gives a report regarding the case in action. Last Spring, Proto Glocar charged that the Board did not give him its salary increase. The Board charged that Proto Glocar refuses to cooperate with the CSC and, thus, he is of harm to the Church. The Diocesan Full Board, last February, ordered that the entire matter be given to Proto Klipa for the purpose of reconciliatory invesitation and report. Proto Klipa, after reconciliatory investigation, moved that Proto Glocar be given the raise and that the Board be ordered to pay him the same. At the same time, Proto Klipa moved that a special meeting be held and at the same the matter of confidence in a priest, on the one hand, and the matter of confidence in the board, be decided. This meeting was to have been held in May, but, upon mutual request, it was continued to December when, once again, by mutual consent, it was delayed until November of this year. The special Assembly was called for November 11. The Diocesan delegation: Archimandrite Dimitrije and Proto Branco Kusonich presided at the meeting. The Diocesan delegation scrupulously respected the instructions given them and the written directives of the jurisdictional Bishop. Thus, the Board, had the opportunity to bring forth at the meeting itself in nine articles its dissatisfaction with the Priest and the Priest Glocar had the same amount of time to reply to the Board. Then, a vote was taken to ascertain who was satisfied with Glocar's work and with him as Pastor of 207 fully qualified votes, there were 128 against and 88 for Glocar. According to this, there were 40 more dissatisfied and, thus, it was ascertained that the majority of the membership was dissatisfied with Proto Glocar. The Diocesan delegation submitted its report with the Minutes to his Grace, the Bishop, for his jurisdiction.

(The minutes are being taken by Archimandrite Firmilian since Father Balach had to leave on official business somewhere with Bishop Nikanora)

In regard to this matter, also spoke; His Grace the Bishop . . . Proto Jurich and Proto Mijatovich, who brought up that more and more there has been a longing by CSCs to be able to get rid of their priests when the congregation wishes. They feel that this cannot be allowed to the congregation, but that it should be given over to the Church Court, which shall investigate the matter and constitute whether the Priest is builty or not, whether he should be transferred or not. Thus, this case of Proto Glocar should be brought forth for the Church Court for jurisdiction.

Archimandrite Firmilian moves that delegates for the Church National Assembly be chosen at the December meetings. It is also decided that the Assembly shall be

held in Shadeland Pa, parish. Further it is decided that the Diocesan Plenum be called to a meeting between the 15th and 20th of February for the budget, the Assembly, and other matters.

Proto Jurich states that yet at the last Assembly a petition was submitted that Lakawama be forgiven its dues because they were building a new church. DECIDED: That with the other petitions it be brought up before the Plenum for decision.

The diocesan financial secretary, Miodrag Cvetkovich, gives his financial report. Income and disbursements, how many debts were paid and the general condition of the treasury. The report is accepted.

The matter of Buena; (N. J.) Archimandrite Firmilian moves that the memorial chapel of Father Adam in Buena be accepted as our Diocesan property, together with Father Adam. DECIDED: To authorize Father Archimandrite Firmilian to prepare the legal forms for the transfer.

The Diocesan financial secretary gives his report of income and disbursements of the Monastery Parish. It is accepted.

Proto Mijitovich moves that the people be informed that the Diocese has hosted the delegation. This is accepted.

The legal advisor, Nick Stepanivich, moves that his Grace the Bishop write to the Holy Bishops' Synod in behalf of the Diocesan Executive Board to inform them that the delegation arrived, that they were our official guests, of their travels throughout the U. S. A. and to thank the Synod for sending them. The motion is seconded by Treasurer Nick Chabrija.

With this, the Agenda, has been covered and the meeting closed with prayer and the blessing of His Grace, Bishop Dionisije at 6:00 o'clock p.m.

Archimandrite Dimitrije — President Bishop Dionisije
Secretary

PLAINTIFF'S EXHIBIT 117

SERBIAN ORTHODOX BISHOP OF AMERICA AND CANADA

Monastery of Saint Sava
Libertyville, Illinois
June 30, 1962

To: All Patriotic Clergy, Church-School Congregations, and Orthodox Serbs of this Diocese

Greetings and Blessings:

Since our announcement of June 1 of this year caused various persons in our public life to make incorrect and malicious comments, I wish to state in behalf of our Diocese and myself the following:

1. Nobody, in behalf of our Diocese, has ever done anything, nor is doing, what would lead to separation from our Holy Serbian Orthodox Church of Saint Sava. This Diocese is and will remain in the canonical unity with its own Serbian Patriarchate, headed by the Serbian Patriarch.

2. As the Bishop of entrusted to me Diocese, I always have been, I am, and I will keep canonical unity and oneness of the Holy Serbian Orthodox Church.

3. My personal relation toward the Holy Bishops' Council of the Cerbian Church and toward His Holiness the Patriarch, in connection with my Episcopal oath, is regulated by the Holy Canons of the Orthodox Church, and the Church Statutes of our provincial Serbian Church will remain unchanged.

4. All decisions of our Diocesan Lay Assemblies, which for any reason were not executed nor obtained necessary higher sanction, will be brought again before the Clergy Lay Assembly for its competency, which has right to change them or to remove them from the agenda.

By this, I order all my beloved clergy and executive boards of our Church-School communities of our Diocese to suppress energetically the malicious rumors and wrong commentaries about our "schism" and separation of this Diocesan from its Mother Church. Our endeavors are to help her, to recover and to be strengthened, and not to be divided and thus weakened.

With Blessings,
(Signed by: Bishop Dionisije)

PLAINTIFF'S EXHIBIT 120
(Crown)

SERBIAN ORTHODOX DIOCESE
For the United States of America and Canada
Serbian St. Sava Monastery
Libertyville, Illinois
U.S.A.

May 30, 1963

Venerable Archimandrite,
Dr. Firmilian Ocokoljich,
Pittsburgh, Pennsylvania
Venerable and dear father Archimandrite,

You have surely learned of the Holy Bishops' Council and Synod's decision with the division of this Diocese and of my removal, along with a suspension, until a verdict is reached. So, you have surely received my circular in connection with that question.

I desire here to inform you, that, up to our Diocesan Assembly, it is impossible to surrender my duties, and at the Assembly, itself, if our Assembly requests it, and if it accepts the decisions, from Belgrade, I will surrender all

duties of the Diocesan Bishop to my people, who accepted me 23 years ago. If you make any plans about your future work, have this in view.

We will surely, soon, have a meeting of the Diocesan Plenum*, at which time this question will be discussed, and from that will depend how all of this will develop in the future. One thing should be known, I cannot remain in the Diocese by force, if my people do not want me, but, at the same time, I will not recognize, and do not recognize, this communistic decision from Belgrade, because nobody can convince me, that all of this is not according to communistic dictation. According to that, I am continuing my fight against communism, without any separation from our Patriarchate, also, without recognizing this unjust and uncanonical decision.

Heartily, I greet you, and wish you every good.

With Blessings,
Signed (Bishop Dionisije)

* Plenum: all of the various Diocesan Committees

PLAINTIFFS' EXHIBIT 121

Temporary address;
3201 South 51st St.
Milwaukee 19, Wis.

Dr. Uros Seferovic,
Vice President of the Diocesan Council
of the Serbian Orthodox Church for the
United States of America and Canada
150 Michau
Riverside, Illinois

Dear Dr. Seferovich:

I am advised that you have distributed a notice for a call of the Clergy Laity General Assembly (Orkveno Narodni Sabor) for August 6, 7, 8 and 9, 1963, of the Diocese at St. Sava Monastery in Libertyville, Illinois.

In accordance with the provisions of the Constitution of our Diocese, particularly paragraphs 20 and 22, this General Assembly can only be summoned by the Diocesan Bishop, and in accordance with said provision of the Constitution, the Sabor can only be opened and presided over by the Diocesan Bishop. Since I have been appointed Administrator of the Diocese by the proper church authorities, I am the only person that can summon, open, and preside over such Sabor.

I am sure you are aware of the fact that Bishop Dionisije has been suspended and his authority has been delegated to me.

I am not against the principle of calling the Sabor at this time. However, it would be necessary that you send out written notices canceling the call for the Sabor, after which I shall then issue my summons for the Sabor. These notices should be send out within seven days of receipt of this letter.

I trust you will respect the provisions of the Diocesan Constitution and aid in preserving the peace and unity of our beloved church.

(closing of letter not included in exhibit)

PLAINTIFFS' EXHIBIT 123A

SERBIAN EASTERN ORTHODOX DIOCESE
FOR THE UNITED STATES OF AMERICA
AND CANADA
Serbian St. Sava Monastery
Libertyville, Ill.
U.S.A.

June 29, 1963

V. Rev. Meguman
Simeon Grozdanovich
Monastery of the Holy Mother of God,
Shadeland, Springboro, Pa.

Very Rev. Father Simo,

Enclosed I am sending the advertisement which I have directed to our newspapers and radio hours, concerning the announcement of our patron saint celebration at Shadeland. I cannot arrive because, as can be seen from advertisement, the Church National Assembly is being held just

prior to the celebration. I cannot arrive to organize everything on the spot, and I must be there, God willing.

Orally inform everyone who indicates an interest in Shadeland's patron saint celebration.

Yesterday a new commission arrived from Belgrade—two bishops, one archpriest, and one protodeacon. We have decided here, that they are not guests of our Diocese, and they cannot be received either in the Monastery nor in Shadeland. Therefore, you cannot receive them for lodging or any kind of hospitality, since they are not guests of the Diocese. Enclosed also is our announcement about this.

Another thing. They will seek a place to tonsure as a monk the archpriest Stevan Lastavica, and afterward to consecrate him a bishop. I FORBID *that he be tonsured a monk at Shadeland. Therefore, if they appear there, and ask for this,* YOU CANNOT OPEN THE CHAPEL TO THEM NOR RECEIVE THEM AT ALL.

My sincere greeting to you

With blessing Bishop Dionisije

PLAINTIFF'S EXHIBIT 126

Holy Episcopal Synod of the Serbian
Orthodox Church
No. 1987/min. 267
June 13, 1963. Belgrade.
Very Rev. Archmandrite Dr. Firmilian Ocokoljich,
Administrator of the Midwest American Diocese,
Pittsburgh

Holy Episcopal Synod at its meeting under above number and date, rendered the following decision:

"His Holiness the Serbian Patriarch German is authorized to give all Episcopal dispensations in the following dioceses:

Middle Eastern America and Canadian
Middle Western American, and
Western American, until the consecration of the Very Rev. Stefan Lastavica, pastor of Windsow into the rank of a Bishop, when he is to take over these dispensations".

Of the above decision we have the honor to inform you for your knowledge.

For the President of the
Holy Bishops' Synod
Member, Bishop of Timok
(sign. Emilian)

SEAL

PLAINTIFF'S EXHIBIT 128

HOLY BISHOPS' SYNOD
SERBIAN ORTHODOX CHURCH
No. 3223/Minutes 510
October 18, 1963-rd year
Belgrade

Your Grace,

In connection with Your Grace's act-(letter) of 10/3, 1963rd year, the Holy Bishops' Synod, at its meeting, under the above number, has rendered this decision:

"To inform His Grace, the Midwest North-American Bishop, Mister Firmilian:

1. That all the rights of the former American-Canadian Diocese, as they relate to the autonomy in the administrative sense, remain unchanged. The only exception is the forming of three dioceses and

2. That the Constitution of the former American-Canadian Diocese remains the same and that the Dioceses in America and Canada will not, in an administrative sense, (the management (or direction) of the properties) be managed (or directed) in the same manner as those in Yugoslavia."

Of the above, we have the honor to inform Your Grace with a plea for your information.

Your Grace's brother in Christ,

For the President
Holy Bishop's Synod
Member, Bishop of Timok
(sig. EMILIAN

(seal)

TO HIS GRACE MIDWEST NORTH-AMERICAN
BISHOP
MISTER F I R M I L I A N

(NOTE:—Words underlined, added by translator

MILWAUKEE

(NOTE: — Words underlined, added
by translator for clarity)

Certificate Number 31044

STATE OF ILLINOIS
OFFICE OF
THE SECRETARY OF STATE

PLAINTIFF'S EXHIBIT 127

To all to whom these Presents Shall Come, Greeting:

I, PAUL POWELL, Secretary of State of the State of Illinois, do hereby certify that the following and hereto attached is a true photostatic copy of the Articles of Incorporation, of SERBIAN ORTHODOX MONASTERY OF SAINT SAVA,

the original of which is now on file and a matter of record in this office.

In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois. Done at the City of Springfield this 29th day of October A.D. 1968

Paul Powell
SECRETARY OF STATE

1-4822

Certificate Number 308

STATE OF ILLINOIS
OFFICE OF THE SECRETARY OF STATE

Con[illegible]

Whereas, Articles of Incorporation duly signed and verified of SERBIAN ORTHODOX MONASTERY OF SAINT SAVA have been filed in the Office of the Secretary of State on the 5th day of April A.D. 1945 as provided by the "GENERAL NOT FOR PROFIT CORPORATION ACT" of Illinois approved July 17, 1943 in force January 1 A.D. 1944.

Now Therefore, I, EDWARD J. BARRETT, Secretary of State of the State of Illinois, by virtue of the powers vested in me by law, do hereby issue this Certificate of Incorporation and attach thereto a copy of the Articles of Incorporation of the aforesaid corporation.

In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois. Done at the City of Springfield this 5th day of April A.D. 1945 and of the Independence of the United States the one hundred and 69th.

(SEAL)

Edward J. Barrett

SECRETARY OF STATE

Filing Fee $15.00

FORM NFM

2-4822

ARTICLES OF INCORPORATION
under the
GENERAL NOT FOR PROFIT CORPORATION ACT

(These Articles Must Be Filed In Duplicate)

(DO NOT WRITE IN THIS SPACE)
Date Paid 4/5/45
Filing Fee $ 10
Clerk RM

To EDWARD J. BARRETT Secretary of State, Springfield, Illinois

We, the undersigned, (Not less than three) 350 7

Name	Number	Street	Address City	State
Mila Radakovich	501	North Scott	Joliet	Illinois
George Rapaich	461	Broadway	Gary	Indiana
Very Rev. Andra Popovich	9807	Commercial Ave.	South Chicago	Illinois
Rev. Vladimir Mrvichin	1300	Connecticut Ave.	Gary	Indiana
Rev. Dositey Obradovich	St. Sava Monastery		Libertyville	Illinois

being natural persons of the age of twenty-one years or more and citizens of the United States, for the purpose of forming a corporation under the "General Not For Profit Corporation Act" of the State of Illinois, do hereby adopt the following Articles of Incorporation:

1. The name of the corporation is: Serbian Orthodox Monastery of Saint Sava
2. The period of duration of the corporation is: Perpetual (Please state "perpetual" or definite number of years)
3. The address of its initial Registered Office in the State of Illinois is: Serbian Orthodox Monastery of Saint Sava Street, in the Village of Libertyville (Name) County of Lake and the name of its initial Registered Agent at said Address is: Very Rev. Dimitriye Balach, Abbot
4. The first Board of Directors shall be Nine (9) (Not less than three) in number, their names and addresses [illegible]

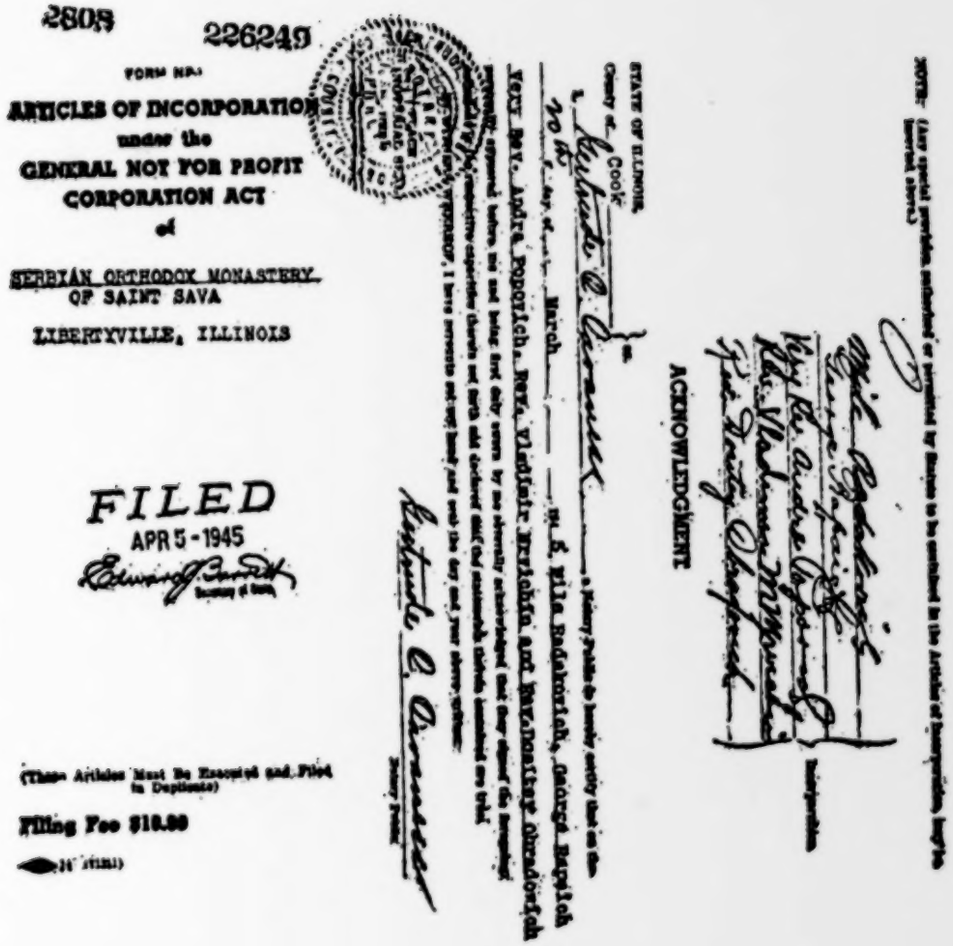
PAID APR 5 1945

Name	Number	Street	Address City	State
Rt. Rev. Bishop Dionisiye	c/o Monastery		Libertyville	Illinois
Very Rev. Peter C. Stiyachich	1905 W. Schiller St.		Chicago	Illinois
Very Rev. Dimitriye Balach	Abbot, c/o Monastery		Libertyville	Illinois
Mila Radakovich	501 North Scott		Joliet	Illinois
Very Rev. Andra Popovich	9807 Commercial Ave.		Chicago	Illinois
George Rapaich	461 Broadway		Gary	Indiana
Rev. Vladimir Mrvichin	1300 Connecticut Ave.		Gary	Indiana
Rev. Dositey Obradovich	c/o Monastery		Libertyville	Illinois
Vladimir Medenica	1324 Connecticut Ave.		Gary	Indiana

The purpose or purposes for which the corporation is organized are:

1. To maintain and conduct a Monastery for monks of the Serbian Eastern Orthodox Diocese of the United States of America and Canada.
2. To carry on cultural, spiritual, educational, and [illegible] Church and American-Serbian activities, including assembli[illegible] conferences, youth rallies, conventions, summer camps and simil[illegible] activities.
3. To maintain and conduct a theological school of students for priesthood in the Serbian Eastern Orthodox Church in America and Canada.
4. To maintain a home for aged and indigent American-Serbian clergy and Americans of Serbian descent, who are members of the Serbian Eastern Orthodox Church.

BEST COPY AVAILABLE



2808 226249

FORM NO.

ARTICLES OF INCORPORATION
under the
GENERAL NOT FOR PROFIT
CORPORATION ACT
of

SERBIAN ORTHODOX MONASTERY
OF SAINT SAVA

LIBERTYVILLE, ILLINOIS

FILED
APR 5 - 1945

(Three Articles Must Be Executed and Filed in Duplicate)

Filing Fee $10.00

STATE OF ILLINOIS,
County of Cook } ss.

ACKNOWLEDGMENT

NOTE: (Any special provision authorized or permitted by Statute to be contained in the Articles of Incorporation may be inserted herein.)

PLAINTIFFS' EXHIBIT 130

Deed Record No. 256.

No. 235373 Filed for Record this 4th day of February A.D. 1924 at 11:30 o'clock A.M.

THIS INDENTURE, WITNESSETH, that the Grantors, Harrie L. Hall and Loie E. Hall, his wife, in the County of Cook and State of Illinois for and in consideration of the sum of Fifteen Thousand ($15,000.00) in hand paid, CONVEY and WARRANT to Rt. Rev. Mardary of the City of Chicago, County of Cook and State of Illinois the following described Real Estate, to-wit:

Commencing at the northwest corner of the southeast quarter of Section Thirty-three (33) in Township Forty-five (45) North Range Eleven (11) East of the Third Principal Meridian, thence running South on quarter section line nine and nine-hundredths (9.09) chains, thence South seventy-six (76) degrees East seventeen and forty-five hundredths (17.45) chains, thence North four and fifty-four/100ths chains, thence East twelve and sixty-hundredths (12.60) chains, thence North eight and seventy-nine hundredths (8.79) chains to the quarter Section line, thence west on the quarter section line twenty-nine and sixty hundredths (29.60) chains to the place of beginning, containing thirty and twenty-seven hundredths (30.27) acres, more or less, with all improvements thereon,

situated in the County of Lake, in the State of Illinois, hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of this State.

Dated this 10th day of January A.D. 1924

(signature) Harrie L. Hall [SEAL]
Loie E. Hall [SEAL]

$15.00
Rev. stamps
cancelled

(notarization omitted)

PLAINTIFF'S EXHIBIT 131

DEED RECORD No. 317

Doc. No. 308376. Filed November 10th, A.D. 1927 at 9:00 o'clock A.M.

780

THIS INDENTURE WITNESSETH, That the grantor, BISHOP MARDARY(formerly known as Rt. Rev. Mardary), a bachelor, of the City of Chicago, County of Cook and State of Illinois, individually and as Trustee under a Declaration of Trust, hereinafter described, witnesseth:

1. WHEREAS, HARRIE L. HALL and LOIE E. HALL, his wife, of Chicago, Cook County, Illinois, by their said Warranty Deed, dated January 10th, 1924, by them on that day duly acknowledged and delivered, and recorded February 4, 1926, in the office of the Recorder of Deeds of Lake County, Illinois as Document No. 235,373, conveyed to the undersigned under the name and style of Rt. Rev. Mardary, real estate in Lake County, Illinois hereinafter described;

2. AND WHEREAS, said real estate hereinafter described was purchased in part by funds of the Rt. Rev. Mardary, and in part by donation from various persons given to Rt. Rev. Mardary for that purpose;

3. AND WHEREAS, as Bishop Mardary (Formerly known as Rt. Rev. Madary, of the Serbian Orthodox Diocese of United States and Canada), as owner of the premises hereinafter described in consideration of One Dollar ($1.00) and other good and valuable considerations, did on the 26th day of October, 1926 make and execute a certain Declaration of Trust in favor of the Serbian Orphanage of St. Sava's Monastery at Libertyville, Lake

County, Illinois, previding therein also that if said Orphanage be ever discontinued then to be used in the discretion of the then Bishop of the said Diocese for the use and benefit of said Serbian Orthodox Diocese for the United States and Canada; which said Declaration of Trust, conveying the premises hereinafter described, was duly signed and executed and recorded in the office of the Recorder of Deeds of Lake County, Illinois, as Document No. 288,766 October 27th, A.D. 1926;

4. AND WHEREAS, there was not then in existence any such society, corporation or organization by the name, style or description of the Serbian Orphanage of St. Sava's Monastery at Libertyville, Lake County, Illinois, except in name, but that it was intended when said Declaration of Trust was made to adopt such a name for the purpose of organizing an Orphanage; but that instead of using the name above described for organizing an orphanage, another name was adopted and a corporation organized under the laws of the State of Illinois, which said corporation is known as Serbian Eastern Orthodox Diocese Council for United States and Canada, for the purpose of doing and performing the work intended to be done by Serbian Orphange of St. Sava's Monastery at Libertyville, Lake County, Illinois, if it had been adopted and used;

5. AND WHEREAS there was no one who did or could accept or receive the benefits intended to be bestowed and conveyed by said Declaration of Trust, and said gift or bestowal in said Declaration of Trust is hereby and herein withdrawn and determined, revoked and cancelled.

6. NOW, THEREFORE, I, BISHOP MARDARY (formerly known as Rt. Rev. Mardary), a bachelor, individually and as Trustee, in consideration of One Dollar

($1.00) and other good and valuable considerations to me in hand paid, receipt whereof is hereby acknowledged, do hereby alien, remise, release and convey unto Serbian Eastern Orthodox Diocese Council for United States and Canada, party of the second part, its successors and assigns, forever, subject only to the provision in paragraph seven hereinafter set forth, all that tract or parcel of land in the County of Lake and State of Illinois described as follows, to-wit:

Commencing at the northwest corner of the southeast quarter of Section thirty-three (33), in Township forty-five (45) North, Range Eleven (11) East of the Third Principal Meridian, thence running south on quarter section line nine and nine hundredths (9.09) chains; thence south seventy-six (76) degrees east seventeen and forty-five hundredths (17.45) chains; then North four and fifty-four /100ths chains; thence east twelve and sixty-hundredths (12.60) chains; thence north eight and seventy-nine hundredths (8.79) chains to the quarter section line; thence west on the quarter section line twenty-nine and sixty hundredths (29.60) chains to the place of beginning, containing thirty and twenty-seven hundredths (30.27) acres more or less.

7. Said Serbian Eastern Orthodox Diocese Council for United States and Canada shall not mortgage, sell, alien or convey said above described real estate or any part thereof without the written consent of the Bishop of said Serbian Eastern Orthodox Diocese for the United States and Canada, or his successor.

8. Hereby conveying said above described premises subject to the condition and provision last above set forth

with all singular the improvements thereon, the hereditaments, and appurtenance thereunto belonging, or in any wise appertaining, and all the estate, right, title, interest, claim and demand whatsoever, in law or in equity, which I as Rt. Rev. Mardary, now Bishop Mardary, individually and as Trustee, ever had or may now have in and to the said premises: TO HAVE AND TO HOLD the same unto the said party of the second part, its successors and assigns forever, subject only to the provision in paragraph seven as fully and effectually to all intents and purposes in law as he the said party of the first part might, could or ought to sell and convey the same by virtue of the conveyance of said HARRIE L. HALL and his wife, and by virtue of the withdrawal and ending of the said Declaration of Trust herein above described.

IN WITNESS WHEREOF, the said party of the first part, individually and as Trustee, hereunto sets his hand and seal this 9th day of November, A. D. 1927.

Bishop Mardary (SEAL)
Rt. Rev. Mardary (SEAL)
Trustee in said Declaration of
Trust hereinabove described.

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, MARIE NEEDHAM, a Notary Public in and for said County, in the State of aforesaid, do hereby certify that BISHOP MARDARY of the Serbian Orthodox Diocese of United States and Canada (formerly known as Rt. Rev. Mardary), a bachelor, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, individually and as such Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and seal this 9th day of November, A.D. 1927.

Marie Nedham
Notary Public.

Marie Needham
Notary Public
Cook County, Ill.

My commission expires February 6/1930.
Endorsed:
OCT. 18, 1927
CONSULATE GENERAL OF THE
SERBS, CROATS AND SLOVENES,
CHICAGO, ILL.

PLAINTIFF'S EXHIBIT 132

This Indenture Witnesseth, That the Grantor SERBIAN EASTERN ORTHODOX DIOCESE COUNCIL FOR UNITED STATES AND CANADA, a corporation duly organized and existing under and by virtue of the laws of the State of Illinois, and duly authorized to transact business in the State of Illinois for and in consideration of Ten and No/100 ($10.00) Dollars, and other good and valuation considerations, and pursuant to authority given by the Board of Bishop and Trustees of said corporation, CONVEYS and QUIT CLAIMS unto SERBIAN EASTERN ORTHODOX DIOCESE FOR UNITED STATES OF AMERICA AND CANADA, an Illinois religious corporation duly organized and existing under and by virtue of the laws of the State of Illinois having its principal office in the County of Lake and State of Illinois all interest in the following described Real Estate, to wit:—

That part of the South East quarter of Section 33, Township 45 North, Range 11, East of the 3rd P.M., in Lake County, Illinois, described as follows, towit: Commencing at the North West corner of said quarter Section; running thence South along the West line of said quarter Section 9.09 chains; thence South 76 degrees East 17.45 chains; thence North 4.54 chains; thence East 12.60 chains; thence North 8.79 chains to the North line of said quarter Section; thence West on the quarter Section line 29.60 chains to the place of beginning situate in the County of Lake in the State of Illinois.

In Witness Whereof, said Grantor has caused its corporate seal to be hereto affixed, and has caused its name to be signed to these presents by its Bishop and attested by its Secretary, this 4th day of September A.D. 1941.

Serbian Eastern Orthodox Diocese Council for United States and Canada,
By *Bishop Dionisije*
Bishop of the Diocese
Attest: *Rev. Fermilian Ogokoljich*,
Secretary.

(Seal)

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, Annamee Balluff, a Notary Public, in and for said Council in the State aforesaid, Do Hereby Certify that Bishop Dionisije personally known to me to be the Bishop of the Serbian Eastern Orthodox Diocese Council for United States and Canada, a corporation, and Rev. Firmilian Otsokoljich personally known to me to be the Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Bishop and Secretary, they signed and delivered the said instrument as Bishop and Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Trustees of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and seal this 4th day of September A.D. 1941.
(SEAL)

Annamse Balluff
Notary Public

PLAINTIFF'S EXHIBIT 136

WARRANTY DEED

This Indenture Witnesseth, That the Grantor, Serbian Eastern Orthodox Diocese for United States of America and Canada, a religious corporation created and existing under and by virtue of the laws of the State of Illinois, duly organized to transact business in the State of Illinois, for the consideration of One Dollar and other good and valuable considerations and pursuant to authority given by the Board of Trustees of said corporation, Conveys and Warrants unto Serbian Orthodox Monastery of Saint Sava, a corporation created and existing under and by virtue of the laws of the State of Illinois, having its principal office in the Village of Libertyville, and State of Illinois, the following described Real Estate, to-wit:

First Parcel

Commencing at the North West corner of the South East quarter of Section 33, Township 45 North, Range 11, East of the Third Principal Medidian; thence running South on the quater Section line 9.09 chains; thence South 76 degrees East 17.45 chains; thence North 4.54 chains; thence East 12.60 chains; thence North 8.79 cains to the quarter Section line; thence West on the quarter Section line 29.60 chains to the place of beginning, containing 30.27 acres, more or less, with all improvements thereon, in Lake County, Illinois.

Second Parcel

That part of the South East quarter (SE¼) of Section 33, Township 45 North, Range 11, East of the Third Principal Medidian, described as follows: Commencing at the North West corner of said quarter Section; thence South on the Wast line of said quarter Section 9.09 chains; thence South 76 degrees East 17.45 chains for a place of beginning; thence North

4.54 chains; thence East 12.6 chains to a point 40 rods West of the East line of said quarter Section; thence South 7.66 chains more or less, to a point South 76 degrees East of the place of beginning; thence North 76 degrees West 12.98 chains, more or less, to the place of beginning, in Lake County, Illinois, subject to an easement for the purpose of ingress and egress from the Des Plaines River over and across the Southerly five (5) feet of the premises above described, in Lake County, Illinois.

Third Parcel

That part of the Southeast Quarter (SE¼) of Section Thirty-three (33), Township Forty-five (45) North, Range Eleven (11) East of the Third Principal Meridian, described as: Beginning at a point on the West line of and 1862.4 feet North from the Southwest corner of said Southeast Quarter (SE¼) of Section 33; thence North along said West line 187.6 feet to a point which is 2050 feet North from the said Southwest corner of the Southeast Quarter (SE¼) of Section 33; thence South 76 degrees East 404.5 feet to the center of Milwaukee Avenue; thence South 26 degrees 26 minutes West along the center of said Milwaukee Avenue 100.8 feet; thence West, parallel to the North line of said Southeast Quarter (SE¼), Section 33, 346.8 feet to the place of beginning, containing 1.2 acres, more or less, in Lake County, Illinois.

Fourth Parcel

That part of the Southwest Quarter (SW¼) of Section Thirty-three (33), Township Forty-five (45) North, Range Eleven (11) East of the Third Principal Meridian, described as beginning at a point on the East line of and 1862.4 feet North from the Southeast corner of said Southwest Quarter (SW¼) of Section

33; thence West, parellel to the North line of said Southwest Quarter (SW¼), 222.2 feet; thence North parellel to the East line of said Southwest Quarter (SW¼), 784.1 feet to the North line of said southwest Quarter (SW¼); thence East to the Northeast corner of said Southwest Quarter (SW¼) of Section 33; thence South along said East line of the Southwest Quarter (SW¼) to the place of beginning, containing 4 acres more or less, in Lake County, Illinois.

Fifth Parcel

That part lying Easterly of the Des Plaines River of that part of the South Half (S½) of Sections Thirty-three (33) and Thirty-four (34), Township Forty-five (45) North, Range Eleven (11) East of the Third Principal Meridian, described as follows: Beginning at the Southwest corner of the Southeast Quarter (SE¼) of Section 33; thence running North along the West line of said Southeast quarter (SE¼) 2050 feet; thence running South, 76 degrees East, 3425 feet; thence running South 3 minutes East, 561 feet; thence running South, 89 degrees 53 minutes West, 660 feet to the East line of said Section 33; thence running South along the East line of said Section 33 to the Southeast corner of said Section; thence running West along the South line of said Section 33 to the place of beginning, in Lake County, Illinois.

Sixth Parcel

Lot Two (2) in Block Twelve (12) in D.S. Lee's Addition to Chicago, being a subdivision of part of East half (E½) of North West quarter (NW¼) and West half (W½) of North East quarter (NE¼) of Section Six (6), Township Thirty-nine (39) North, Range Fourteen (14), East of the Third Principal Meridian, in Cook County, Illinois.

In Witness Whereof, said Grantor has caused its corporate seal to be hereto affixed, and has caused its name to be signed to these presents by its President, and attested by its Secretary, this 12th day of April, A.D. 1945.
(SEAL)

Serbian Eastern Orthodox Diocese for
United States of America and Canada
By *Rt. Rev. Bishop Dionisije*
President.

V. Rev. Dimitrije Balach
Secretary.

State of Illinois)
) ss.
County of Cook)

I, Gertrude C. Cavaness, a Notary Public in and for said County, in the State aforesaid, Do Hereby Certify Rt. Rev. Bishop Dionisije, President of the Serbian Eastern Orthodox Diocese for United States of America and Canada, a corporation, and Very Rev. Dimitrije Balach, personally known to me to be the Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such President and Secretary, they signed and delivered the said instrument as President and Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Trustees of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and Notarial seal this 12th day of April, A.D. 1945.
(SEAL)

Gertrude C. Cavaness
Notary Public.

Filed for record April 18 A.D., 1945 at 9:30 o'clock A.M. and duly recorded in Book 703 of Records, page 260.

Howard L. Scott

STATE OF ILLINOIS)
) SS.
COUNTY OF LAKE)

I, Frank J. Nustra, Recorder of Deeds in and for the County of Lake in the State of Illinois and Keeper of the records and files thereof, do hereby certify that the attached and foregoing is a true, correct and complete copy of Document No. 56079 as recorded on the 18th day of April A.D. 1945, as fully as the same appears from the records thereof now in my office remaining.

In Witness Whereof, I have set my hand and affixed the Seal of said Recorder of Deeds at my office in the City of Waukegan, Illinois, this 15th day of October, A.D. 1969.

Frank J. Nustra
Recorder of Deeds, Lake County,
Illinois
By *Esther S. Palm*
Deputy

PLAINTIFFS' EXHIBIT 150

Filed April 22, 1969
At 11:11 A.M.

THIS DEED,

Made the 27th day of March in the year nineteen hundred and Sixty-nine

Between THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA, AND CANADA, Libertyville, Illinois, a non-profit corporation organized and existing under the laws of the State of Illinois, Grantor

AND

ST. SAVA HOME, Springboro, Pennsylvania, a non-profit corporation organized and existing under the laws of the Commonwealth of Pennsylvania, Grantee.

WITNESSETH, *That in consideration of*: One ($1.00) *Dollars, in hand paid, the receipt whereof is hereby acknowledged, the said grantor does hereby grant and convey, sell and confirm unto the said grantee* its successor *and assigns,* All that certain piece or parcel of land situated in the Township of Spring, Crawford County, Pennsylvania, bounded and described as follows, to-wit:

BEGINNING at an iron pin at the intersection of the easterly line of Route 18 and the northerly line of Township Route 839; thence south 82° 45′ east along the northerly line of said Township Route 839, a distance of 786.99 feet to an iron pin; thence north 7° 15′ east along other land of the grantor a distance of 715.72 feet to an iron pin; thence north 11° 22′ west continuing along other land of the grantor a distance of 340.34 feet to an iron pin; thence south 74° 45′ west a distance of 1053.84 feet to an iron pin on the easterly line of Route 18; thence south 15° 15′ east along the easterly line of said Route 18 a distance of 421.93 feet to a point; thence continuing in a southerly direction along the easterly line of said Route 18 an arc distance of 194.14 feet; thence south 24° 38′ east still along said Route 18 a distance of 85.57 feet to the point or place of beginning.

The above described property containing 18.912 acres and being drawn from a survey of C. E. Stiles and Associates dated August 18, 1966.

Being a part of the same land conveyed to the grantor herein by deed of Rt. Reverend Bishop Dionisije Milivojevich dated July 21, 1951, and recorded in Crawford County Deed Book 360, page 297.

This conveyance is authorzied by Resolution of the Board of Directors of The Serbian Eastern Orthodox Diocese for the United States of America and Canada at a meeting held on September 30, 1966, and the President and Secretary being authorized to execute the deed on behalf of The Serbian Eastern Orthodox Diocese for the United States of America and Canada.

AND *the said grantor will* generally WARRANT AND FOREVER DEFEND *the property hereby conveyed.*

IN WITNESS WHEREOF, *said grantor has hereunto* caused its corporate seal to be affixed, and attested the *day and year first above written.*

(Seal)

THE SERBIAN EASTERN ORTHODOX DIOCESE
FOR THE UNITED STATES OF AMERICA
AND CANADA

By: Rt. Rev. Bishop Dionisije (signed)
President

Attest:
Rev. A. Ivanovich (signed)
Sec'y

(certificate of residence omitted)
(notarization omitted)
(photocopy certification omitted)

PLAINTIFF'S EXHIBIT 151A
THE EXECUTIVE COMMITTEE
SERBIAN ORTHODOX DIOCESE OF AMERICA AND CANADA
ST. SAVA'S MONASTERY,
LIBERTYVILLE, ILLINOIS
July 24, 1963

The Diocese Executive Board of the Serbian Orthodox Diocese for America and Canada at its meeting of July 24, 1963, considered the newly formed situation in our diocese and unanimously brought forth the following:

RESOLUTION:

1. Whereas the Holy Episcopal Council of the Serbian Orthodox Church, without agreement with the people of this diocese and its legally elected committees, divided the Serbian Orthodox Diocese for America and Canada into three new dioceses and for the same appointed the three administrators: Archipriest Lastavica, Archimandrite Firmilian, and Archimandrite Udicki;

2. Whereas the Diocesan Plenum, at its meeting of June 6th declared itself unauthorized to accept this decision, for which reason it forwarded to the Church National Assembly for a decision and at the same time moved the Church National Assembly which had earlier been scheduled by the Plenum from October to the 6-9 of August this year;
3. Whereas these imposed administrators, together with the Priest Association, have boycotted the calling of the Church National Assembly and invited the priest clergy and congregations not to accept the legal decisions of the diocese and not to attend the Assembly;
4. Whereas these administrators invited all the priests and church school congregations not to turn any longer to the Serbian Orthodox Diocese of America and Canada and not to send to it their assessments, membership dues, and other payments, thereby causing great moral and material damage to the Diocese;
5. Whereas these administrators attempted to seize the Diocesan estates: St. Sava's Monastery in Libertyville, the Shadeland Estate in Pennsylvania, and the estate of the Mission of St. Sava in Jackson, California, as well as to appropriate all of the Diocesan cash in the bank in Libertyville—therefore:
   A. The Diocesan Executive Board most sharply protests against such damaging and unlawful work of these administrators, which is in complete discord with the regulations of the Constitution of the Serbian Orthodox Diocese of America and Canada as well as against them sending their circulars to the clergy, congregations, and the people

inviting them not to execute the decisions of the Diocesan authorities;

B. The Diocesan Executive Board also most sharply protests against the illegal work of the Investigating Commission, sent by the Holy Episcopal Synod, which instead of carrying out an investigation, for which purpose it was invited, issues its statements, in which it invites all the clergy, church school congregations and people not to accept the decisions of the Serbian Orthodox American and Canadian (Diocese) for thereby they have wrought great confusion in our people and provoked them into an open revolt against the Holy Episcopal Council, Synod, and Patriarch, and at the same time provoked this Executive Board to seek the defense of the rights of this diocese in the American courts;

C. The Diocesan Executive Board directs the legal counsel of the Diocese, Mr. Nicholas Stepanovich to immediately contact a reputable law firm through which the process of law will be immediately started for the defense of the rights and properties of this diocese in the spirit of the Constitution of this diocese and the laws of the United States of America;

D. Abiding by the decisions of the Diocesan Plenum of June 6th of this year, the Diocesan Executive Board considers that until the Church National Assembly it cannot in any manner change even the status of our Bishop Lord Dionisije, even in the event of new decisions or judgments by the Holy Episcopal Council or Synod, because the Diocesan Church National Assembly must bring its binding decisions about that as well.

The aforegoing Resolution of the Diocesan Executive Board was sent by telegram to the Holy Episcopal Synod in Belgrade, July 24, 1963 by way of Western Union.

REPORT

The American Church Triumvirate—the newly elected Bishop Lord Stevan with his two Adlatus's, Archimandrites Co-administrators, on the 14th of July of this year sent a circular to all church school congregations, the people and clergy not to attend the legally called Diocesan Church National Assembly and proclaimed it: Unlawful, unchurchly, and schismatic. Thereby, this time again they bring great confusion and error among our people, and they will be answerable before the judgment of history and the people, and our called Assembly is fully legal, it is not illegal because it was called according to the Constitution of our Diocese. The Assembly is not unchurchly because Serbian national and church questions will be decided upon and not Tito Communistic.

1. The Assembly is not schismatic because our people did not separate nor is separating itself from its St. Sava Serbian Orthodox Church and its Serbian people.

This Triumvirate trampled the decisions from Belgrade because it called its three dioceses, "The Serbian Orthodox Church in America and Canada," not as the Holy Episcopal Council decided! They have no right to take that name. They signed themselves as directors of the three new dioceses which exists only on paper and do not exist in practicality. For nothing exists from the Diocesan organization in those three dioceses.

This Triumvirate says that in order for the Assembly to be legal, it must be opened by a Bishop. But who would open the Assembly if the Bishop died?! Most certainly his representative or the Vice-President of the Diocesan Coun-

cil and later the Assembly itself would elect its own chairmanship. Every normal man knows this, but only this Church Triumvirate imposed upon Srpstvo does not want to know and comprehend it. Why? Because, boycotting this legal Assembly, they would later call their own Assembly and impose themselves upon these people. American and Canadian Srpstvo does not accept this. American and Canadian Srpstvo will not depart from its national Serbian line of St. Sava for this Goles mountain of this Triumvirate. This Triumvirate warns all our patriotic priesthood of St. Sava which stands with its legal diocese with our America nand Canadian diocese that each of such will be deposed. And they frightened some priests, but what would that kind of deposement mean. Absolutely nothing! Just as the anathemha of the Roman Delegation in 1054 which they placed on the entire Orthodox Church meant nothing. Until now that anathema has not been removed and the Orthodox Church exists as the legal and only successor of the Holy Apostles, protector, and preacher of the true teaching of Christ. That would be the meaning of this Triumvirate deposement even if it were to come from the Patriarch himself from Belgrade. In order for a priest to be deposed, he must be canonically at fault. Let every priest who does not recognize this German Tito Triumvirate not be afraid of those threats for this is not a fault unto him but a national Svetosavska virtue. Of what should the priest be frightened? They should be frightened that the people do not chase them from their colonies, parishes, and congregations. Three of them so far have already lost their parishes: Gary, Indianapolis, and San Francisco. There are others in line. Fear that brother priests, for you cannot make war with God and the people. Even Bishop Lord Lastavica himself will not be able to remain in Windsor that easy, even in his own former parish.

Because of this, I call all of the clergy not to be afraid of the threats of the Triumvirate but to answer the call for the Church National Assembly.

This Church Triumvirate attempted to seize the property of the Diocese and its funds. This did not succeed for them and it will not succeed. Their illegal freezing of the money of this Diocese fell away and was rejected. The rights of this Diocese, its properties, and funds are protected by the American state law through the American courts. The Diocese has already turned to the court for the protection of its rights and property.

This Church Triumvirate in contradiction to the law uses the name of this Diocese. It executes correspondence on photographed stationary and envelopes of our Diocese and Monastery. The Diocese Executive Board has turned to the court for the protection of the name of this Diocese. The Church Triumvirate will pay dearly for this improper usage.

This Church Triumvirate informed all congregations not to send their financial obligations to this Diocese. Thereby they greatly damaged this Diocese and did not even help themselves, for the people stopped and sent nothing to anybody. And they will also have to answer to this in court. Finally, the writing in various newspapers, periodicals, speeches over the radio, statements of the Priest Association, and various signed pamphlets are put on the agenda. They shall all have the opportunity soon to prove in court everything that they wrote.

Brother priests, American and Canadian Serbs, let us remain solid in our Serbian national line of struggle against Communism. Let us remain solid in the preservation of true Svetosavlje and the legacy of St. Sava as have been our fathers, grandfathers, and great grandfathers.

There is talk about my defrockment, for the Holy Episcopal Council has been called into a special assembly for the 26th of July at which this is to be accomplished. Why should they completely depose me and even expel me from the Serbian Orthodox Community of faith? Because, says the Investigating Commission, Bishop Dionisije is giving various statements to the people and does not submit himself to the Holy Episcopal Council and does not uphold his oath. If I write various statements to the people, I am informing Srpstvo which is my duty and at the same time I am defending myself from various lies and slander and I have a right to my public defense. Am I to be at fault for that? Yes, according to the Communist system. The Bishop's oath brethren is of the following substance:

A. The Bishop swears an oath to faithfulness in upholding the Holy Orthodox faith, the Holy Canons of the Seven Ecumenical Councils and fourteen recognized Provincial Councils as well as the legal regulations of his Provincial Church;

B. The Bishop swears an oath to respect the laws of the land in which he lives. I sworn an oath to the laws of the Kingdom of Yugoslavia, and not Tito's. Now I swore an oath to the laws of America. I am not a subject of Tito's Yugoslavia. The Patriarch of Constantinople, Athenagoris, who went from America to Constantinople that he might have been Patriarch had to reject American and receive Turkish citizenship;

C. The Bishop swears to the discipline and loyalty to the Holy Episcopal Council and the Patriarch and at the end of his oath, which he signs with his own hand, it says: That he agrees to be deposed if he shows himself insubordinate. It is understood here that all the decisions of the Holy Episcopal Council are righteous and based on the Holy Canons and

on the foundation of the laws of the Holy Church of Christ. Not every decision or every regulation is written into the legal codex of the Holy Church, because there are temporary and changeable as well as unjust decisions and regulations. The sense of the Bishop's oath to disciplinary loyalty to his highest church authority is the fulfillment of all decisions, regulations and rules which are based on God's law of justice and morality. One cannot obey and be submissive to any Patriarch if he breaks the Divine Law of justice and morality, holy dogma, the rules of the Orthodox faith, and Holy Canons. The higher divine laws of justice and morality release every man from fulfilling all obligations and decisions based on the unjust and tyrannical laws of men. God's laws justify legal revolt against those unjust and totalitarian authorities and masters and justifies national uprisings against aggressors and tyrants.

It is clear that my Episcopal oath does not obligate me, Bishop Dionisije, to obedience and subordination to the Holy Episcopal Council and Patriarch if they err in their decisions and regulations. . . . And all the aforementioned decisions were brought under the pressure of Tito's Communist authorities. On this foundation the Holy Church deposed its Patriarchs (Macedonius, Nestorius, and others) and Bishops. On this foundation, the people deposed their unjust and tyrannical rulers.

This much to clarify the question of Church discipline and the Episcopal oath.

Yours humbly in the Lord,
Bishop Dionisije

St. Sava's Monastery
July 24, 1963
Libertyville, Illinois

PLAINTIFF'S EXHIBIT 152
THE SERBIAN ORTHODOX DIOCESE FOR AMERICA AND CANADA
ST. SAVA'S MONASTERY
LIBERTYVILLE, ILLINOIS
JUNE 12, 1963
DIOCESAN NO. 195

To All The Clergy, To All Church School Congregations Of The Serbian Orthodox Diocese For America and Canada:

Reverend Fathers, Dear Brothers:

We are informing you of the decision of the Diocesan Plenum of June 6th this year of the calling of the Diocesan Church National Assembly and send this supplementary invitation for participation in the Assembly.

According to the decision of the Church National Assembly of 1960 "the calling of the Assembly is performed by the jurisdictional Bishop that is the Diocesan Plenum." (Minutes Page 11). The jurisdictional Bishop called the Assembly into regular session and the Diocesan Plenum changed the date of the call to the month of August because of urgency in connection with the decision of the Holy Episcopal Council and Synod.

In connection with the adopted changes and amendments of the Constitution of our Diocese from the Assembly of 1960, you are informed that the committee of the Monastery of the Protection of the most Holy Mother of God in New Jersey with its elder is a member of the Plenum in good standing and, therefore, of the Assembly because that Monastery is under the jurisdiction of this Diocese. Please be informed of this in connection with paragraph 2 of the earlier invitation.

Also, please be informed that in connection with paragraph 4 of the earlier invitation according to the decision of the Church National Assembly of 1960, every congregation sends two delegates besides its President, who by virtue of his position is a member of the Assembly. The congregations elect two alternates who come in the event that any of the elected members cannot come.

We request that all church school congregations of our Diocese immediately begin the election of their delegates for the forthcoming Assembly and inform our diocesan office of the names of the delegates, the President, and the alternate, and submit their addresses no later than July 20, 1963.

Further, it is recommended to all priests and church school congregations to continue to regularly turn to our Diocese for all its questions, needs, and directives, for the concern here is for the preservation of the unity and wholeness of our Holy Church and our Diocese itself as they are.

All the remaining material and the agenda for the Assembly will be sent to you later, but soon.

REPORT OF THE DIOCESAN PLENUM

On the day of June 6, 1963 in the Monastery of St. Sava in Libertyville, a meeting was held of the Diocesan Plenum and at that time the following decision was brought forth:

1. The Plenum of the Serbian Orthodox Diocese for America and Canada states that this Plenum is not authorized to accept or reject the question of the division of the American and Canadian Diocese into three dioceses and for that reason the entire matter is transferred to the Church National Assembly which because of the urgency of the situation is called for

the days 6, 7, 8 and 9 of August 1963 in the St. Sava's Monastery in Libertyville in place of the earlier scheduled days 14, 15, and 16 October this year; and according to the rules and decisions of the last Church National Assembly held in September 1960. This decision was accepted unanimously.

2. It is decided further that a letter be sent to the Holy Synod with the warmest request that at the earliest possible time an investigating commission of the Synod be sent at the expense of the plaintiffs which will investigate and terminate the questions of the charges against our Bishop Lord Dionisije at the earliest possible time,—because according to the above decision no changes in the administration of this Diocese can be effected until the decision of the scheduled Church National Council. This point was accepted by all present (36), except two who voted against it (m.m.-m.d.).

In the name of the Diocesan Plenum of the American and Canadian Diocese:

Dr. Uros L. Seferovich
Vice-President of the
Diocesan Plenum

Archimandrite Dimitrije Balach
Diocesan Secretary

(SEAL)
(illegible)

PLAINTIFFS' EXHIBIT 154

BY-LAWS
PRIEST'S PENSION FUND
OF THE
SERBIAN ORTHODOX AMERICAN-CANADIAN
DIOCESE

Article 1.

The Pension Fund of the clergy of the Serbian Orthodox Diocese in the U.S.A. and Canada is instituted by the decision of the VII Church-national assembly of 1952 and began to function on January 1, 1953.

This Fund is untouchable and its resources are not to be used for anything other than the pensions of the priests and their families, according to the rules of these By-laws.

Article 2.

The initial reserve capital carried over to January 1, 1958, when the Fund becomes effective, remains untouched. The interest, regular payments, and other income will serve for the payment of pensions.

Article 3.

Revenue sources for this Fund are:

1. Regular monthly payments in the amount of $5.00;
   a) From every member of the clergy in the service of the church (either on a parish, in a monastery, or in the Diocese);
   b) From every church school congregation;
   c) From the monastery for every clergyman in the service of the monastery;
   d) From the Diocese for every clergyman in the service of the Diocese;
   e) From every clergyman in any other service, or even being without service, who has income or

benefits in money or other compensation in the minimum amount of $150.00 per month.

2. Regular monthly payment of $10.00 from every clergyman who willfully leaves the service of the church.
3. All other incomes of this Fund such as contributions, willed estates, interests, etc.

Article 4.

Every priest or priest-monk, or church school congregation, which, for no matter what reason, fails to make these payments, will be responsible to make all back payments into this Fund, beginning January 1, 1953, when the Fund was instituted.

Article 5.

Every newly-ordained priest in both orders, as well as the newly accepted clergyman, must pay into this Fund from the day he accepts his duties. He will give advanced, written promise concerning this.

Article 6.

Every priest, in both orders, as well as priests' widows and orphans, who fulfill the conditions of these Bylaws, have the right to pension.

Article 7.

Pension is paid when it is shown that a priest is disabled, or cannot carry out his priestly duties, or on the basis of an application rendered upon attaining 65 years of age.

Article 8.

The lawful spouses of the priests who are members of this Fund, who have been married according to Orthodox church rites by a canonical Orthodox clergyman, have a right to pension after the death of their respective husbands, until they remarry or until death.

The amount of widow's pension is equal to the personal pension which the member of the fund received, or which he would receive if he were alive.

Article 9.

Orphaned children of a priest will receive their parent's pension until they have attained 18 years of age.

Article 10.

On the basis of application, and documentary proof, and upon the motion of the Diocesan Ecclesiastical Court, the Diocesan Bishop will make the authoritative decision on pension and on the order to make payment of pension.

Article 11.

A priest, who through his own fault, loses the rank of priesthood, loses all rights to pension.

Article 12.

No priest has a right to have his payments returned to him before three years of payments have been made. If, after paying regularly into the Fund for three years, he asks that his money be returned, one third of the amount of his payments will be returned to him.

Article 13.

If a priest, a priest-monk, a priest's widow, or a priest's orphaned children qualify for a pension according to the Bylaws of this Fund, they do not lose their rights to the same regardless of where they reside.

Clergymen of this Diocese, who cease to be such by leaving the Diocese, on the basis of properly obtained canonical release, retain all rights in the Fund if they continue making their monthly payments.

Article 14.

A member is entitled to pension only after five full years of payments.

Article 15.

In event of the death of a contributor before 5 years of payments, the total payments will be refunded to his family.

Article 16.

Each year, the Diocesan Ecclesiastical Court, prior to the annual clergy assembly, will submit a report on the work and financial conditions of the Fund, and will accept suggestions for future work.

Article 18. (sic)

The Diocesan Ecclesiastical Court will administer the Pension Fund together with two clergymen—members of the Fund, who are elected by the clergy for 3 year terms.

The Ecclesiastical Court handles all administrative matters relative to this Fund.

Article 19.

The accounts of this Fund will be audited by the Diocesan Auditing Board twice yearly. The Auditing Board will then report its findings to the clergymen and church-school congregations.

Article 20.

Changes and amendments to these Bylaws will be made by the Diocesan church-national assembly.

Article 21.

These Bylaws were adopted at the VIII Diocesan church-national assembly 1956, Libertyville, Illinois, and were approved by the Holy Episcopal Synod of the Serbian Orthodox Patriarchate in Belgrade on November 26, 1957, under No.1424/minutes 669.

PENSION FUND TABLE OF THE CLERGY OF THE SERBIAN ORTHODOX AMERICAN-CANADIAN DIOCESE

Years of payments	Number of pensioners	Monthly pension	Annual pension	Total for all
6	2	$30.00	$360.00	$720.00
7	3	34.00	408.00	1128.00
8	4	38.00	456.00	1584.00
9	5	42.00	524.00	2108.00
10	6	46.00	552.00	2660.00
11	7	50.00	600.00	3260.00
12	8	53.00	636.00	3896.00
13	9	56.00	672.00	4568.00
14	10	59.00	708.00	5276.00
15	8	62.00	744.00	5952.00
16	7	65.00	780.00	5460.00
17	7	68.00	816.00	5712.00
18	7	71.00	852.00	5964.00

In the first year, from payments alone, in addition to paid pensions, there would remain in the clergy pension fund for carry over into the next year $5,280.00; and after 18 years, $29,712.00.

Interest on deposited money or other receipts from eventual investments of money are not entered in the table.

PLAINTIFFS' EXHIBIT 195A

Metropolitan of Zagreb
Confidential No. 9
January 24, 1963
in Zagreb

To the Holy Synod of Bishops of
the Serbian Orthodox Church
Belgrade

REPORT OF DELEGATION OF THE HOLY SYNOD OF BISHOPS ON ITS OFFICIAL VISIT TO THE SERBIAN ORTHODOX DIOCESE OF AMERICA AND CANADA

The Holy Assembly of Bishops of the Serbian Orthodox Church, by its decision AS 19/minutes 50, of June 12, 1962, recommended to the Holy Synod of Bishops, "to designate a delegation which will go to America, study all the posed questions on the spot in cooperation with His Grace, American-Canadian Bishop Dionisije, and to make concrete proposals for the next meeting of the Holy Assembly of Bishops." Such here so-called posed questions, the study of which is recommended in this decision, are mentioned in the first part of this same decision, and in connection with the decision of the Holy Synod of Bishops, No. 1712/1962, to-wit:

(1) Proposal of His Grace, American-Canadian Bishop Dionisije that his diocese be elevated to the rank of metropolitanate; (2) that territories in South America and South Africa be added to the same diocese; and (3) that a decision be rendered on the election to two to three assistant bishops. These are questions which were in recent years proposed by Bishop Dionisije himself, and also the diocesan council over there.

Executing the above decision of the Holy Assembly of Bishops, the Holy Synod of Bishops, by its Decision No. 1956/minutes 366, of June 29, 1962, appointed a delegation: His Eminence, the Metropolitan of Zagreb Damaskin, His Grace, Bishop of Backa, Nikanor, and proto-deacon Branislav Petrovich, Secretary of the Diocesan Executive Committee of the Arch-Bishopric of Belgrade-Karlovci.

In its decision, the Holy Synod of Bishops, in addition to previously mentioned three matters, put as a purpose of this delegation, "any other matters which the Delegation finds as pertinent and necessary." By this are included all those matters which are related to the American-Canadian Diocese, and which were discussed in the Holy Assembly of Bishops and Synod, but concerning which, for the most part, a decision was not rendered. These are the matters: (1) The question of changes of the Constitution of the American-Canadian Diocese (Synod No. 2676 of September 14, 1961, and letter from Bishop Dionisije No. 115 of February 11, 1962); (2) The question of the constant absence of Bishop Dionisije from the meetings of the Holy Assembly of Bishops (Synod No. 583/Minutes 84, March 2, 1962); (3) Decision of the Holy Assembly of Bishops and Synod by which Bishop Dionisije is asked "not to use his high church position for purposes which are not ecclesiastical" (AS#4/Minutes 49/62 and Synod No. 1850/Minutes 367 of June 29, 1962); (4) Charges against His Grace, Bishop Dionisije from the territory of the American-Canadian Diocese itself, which were forwarded to the Holy Synod or published in the press during the recent years; (5) Certain appearances and rumors which speak in favor of the tendency of eventual separation of the American-Canadian Diocese from the Serbian Patriarchate, and which rumors were recently in part connected with the name of Bishop Dionisije; and (6) a need which for the

last few years was more and more felt, that the Holy Assembly of Bishops should more closely be informed with the conditions in American-Canadian Diocese, and with the spiritual conditions and spiritual needs of our Serbian Orthodox people in it.

With this specified task, the Delegation of the Holy Synod of Bishops, with God's help, started on its journey on September 10, and returned on December 3, 1962. In the United States of America, the Delegation spent from September 13 to November 28 of the same year. Originally it was planned that all this trip should last about 45 days. However, since from the very beginning of our stay there many of our parishes expressed a desire to be visited by the Delegation, and since it was impossible to make all this in such a short time, the Delegation subsequently proposed to His Holiness, the Patriarch, and to the Holy Synod of Bishops that the stay of the Delegation be continued to the end of November of this year, which His Holiness Patriarch German and the Holy Synod of Bishops approved by its Decision Synod No. 2965/Minutes 537, of October 12, 1962.

Delegation has the honor of submitting to the Holy Synod of Bishops a report of this official trip.

I.

TRIP OF DELEGATION TO LIBERTYVILLE.

The trip of the Delegation to Libertyville, where the See of our American-Canadian Diocese is located, was planned through Paris, New York and Chicago; to Paris by train, and further, to New York and Chicago by jet airplane. Starting from Belgrade on September 10 in the evening, after serving a prayer service in the presence of His Holiness Patriarch German and members of the Holy Synod of Bishops, we arrived in Paris on September 12 in the morning, and there we spent half a day. During the short period we visited our small chapel (in the Romanian Orthodox Church), which temporarily serves as our parish church, where we served a Doxology, and later we called on our state representatives. During our passage through Paris, as well as on our return, our Delegation was wholeheartedly helped by the President of the church congregation in Paris, Dr. M. Matich, and Pastor V. Garic.

In the afternoon of the same day, September 12, we took a jet airplane for New York, and there we arrived after 7½ hours of flight. At the airport we were met by: archimandrite Firmilian, Pastor in New York and Bishop's Surrogate, and our general consul, Bogoljub Popovic, who helped us with the immigration authorities, and we easily received permission for our stay until December 2, 1962. With Father Firmilian we were met also by our two young priests: Father Vasily Vejnovich, Assistant Priest in New York, and Father Danilo Krstich, Doctoral candidate of theology at Harvard University. Thanking the general consul for his help and departing from him, we went with our clergy to our church, in our beautiful Church of Saint Sava in the middle of New York, a rare and rich possession of our Serbian Church congregation, bought, together with the parish house, under very reasonable conditions, from the Episcopal Church, and here we served a prayer service to the Holy Mother of God and Saint Sava.

Since the meeting of the Diocesan Council of the American-Canadian Diocese was called in Libertyville for September 14, of which we have been informed several days prior to our departure by His Grace, Bishop Dionisije, at this time we could not remain long in New York, but, leaving the realization of our program in New York for later, we started our journey for Chicago on September 13, again with a jet airplane, where we came on the same day in the

afternoon. We were met at the airport by His Grace, Bishop Dionisije, properly dressed, with a black veil, (while we traveled in civilian clothes), and in addition to him at the airport were Secretary of the Diocesan Executive Board, archimandrite Father Dimitrije Balach, as well as several clergymen from the vicinity with some of the faithful. Immediately from the airport we drove to Libertyville (about 50 minutes away from Chicago), and upon arriving there, we went to Monastery Church, dedicated to Saint Sava, where a prayer was offered by archimandrite Father Gregory Udichy, pastor from Youngwood, and member of the Diocesan Council. At the end of the prayer the Delegation was greeted by His Grace, Bishop Dionisije, who expressed his pleasure and joy that it was possible that in his diocese comes the Delegation from the Holy Assembly of Bishops and Synod and His Holiness Patriarch German, and that in this manner the ways be found and manner for resolving existing problems of the diocese, stating on that occasion that he stands for the unity of this diocese with the Serbian Church in the fatherland. In the name of the Delegation, His Eminence, Metropolitan Damaskin answered. "The Delegation of the Serbian Orthodox Church —stated His Eminence Metropolitan—comes to the diocese which is her living part, and integral part of the Serbian Patriarchate. Toward this her part, the Serbian Orthodox Church feels and expressed the love and care of a mother toward her children, but war conditions during the last war prevented, for a certain period, that relations between this diocese and the church in the fatherland to be practically and in total kept, and so, during this period, certain problems appeared. The Delegation of the Serbian Church is coming because of that: to establish in practice that relation and, on the spot, to learn about spiritual needs of our Serbian people, gathered in this diocese. In addition we are

bringing greetings and blessings from His Holiness the Serbian Patriarch German, to you, Your Grace, to the God-loving clergy of this diocese, as well as to our Orthodox Serbian people which is gathered around its church." Since in the Monastery Church itself is the tomb of Bishop Mardary, of Blessed Memory, the first bishop of this diocese and founder of the Monastery of St. Sava in Libertyville, on which tomb a permanent vigil lamp burns, and next to the church itself, on the right side, the grave of Bishop of Zicha, Nikolai, of Blessed Memory, is found, so next day we served a memorial service for both bishops.

II.

PRESENCE OF THE DELEGATION AT THE MEETING OF THE DIOCESAN COUNCIL AND AT CONVENTION OF FEDERATION OF SERBIAN SISTERS IN LIBERTYVILLE.

After the arrival of the Delegation in Libertyville, the first three days, 14 to 16, September, were used for meeting with the Diocesan Council of the American-Canadian Diocese, which meeting was summoned for September 14; to be present at the annual convention of the Federation of Circles of Serbian Sisters, and for officiating in the Monastery Church on Sunday, September 16th.

1. On the meeting of the Diocesan Council, the delegation was greeted by the President of the Council, His Grace Bishop Dionisije, who mainly repeated his words of greetings from the church, emphasizing that he and the Diocesan Council are for the unbreakable unity of the American Canadian Diocese with its mother church, the Serbian Patriarchate. It was given to be felt, perhaps not from the direct words of His Grace Bishop Dionisije, but such an impression was received, namely, that the delegation of

the Holy Synod of Bishops comes not only as an investigation commission, but with certain authorization as executive, so that President of the delegation, His Eminence Metropolitan Damaskin, greeting the Council on the part of His Holiness the Serbian Patriarch German, and Holy Bishops' Synod, explained and emphasized that the coming of the delegation has a prescribed purpose, in connection with the decision of the Holy Assembly of Bishops, and that is, mainly, those questions which the American-Canadian Diocese itself initiated, especially the question on the changes in the diocesan constitution. In addition to this, the purpose of this delegation is to re-establish normal relations broken by the last war of the Serbian Church in the fatherland with this our diocese. Therefore, the coming of our delegation here should be understood, before everything else, as a manifestation of the unity of our Serbian Church. The Diocesan Council unanimously greeted the speech of the President of the delegation, and after that it decided that the members of the delegation be guests of the Diocesan Council during their stay in Libertyville and, in general, in the United States of America.

At this occasion, the delegation, through the members of the Council, was in a position to partially become acquainted with the conditions in this diocese, and also it gave necessary information on the conditions of our Church in the fatherland, on theological schools, in which all of them were interested, on the repairs of churches destroyed during the war, and other things. Since on that day many clergymen were present and two general vicars, so by understanding with His Grace Bishop Dionisije, a schedule of visits of the delegation to our parishes and church congregations was made. Later that schedule was amended, since shortly many invitations from clergymen arrived that the delegation visit them. Because of that, as we mentioned above, the stay of the delegation in the United States was extended.

2. On Saturday, September 15, the annual regular convention of the Federation of Circles of Serbian Sisters was held. The Circle of Serbian Sisters is purely a church organization, at the parishes, in order to help the church executive board and pastor in keeping the church, church-school, and especially in caring for different church-school affairs. All those parish circles of sisters are organized into a federation, and in that way they benefit from mutual experience and help each other. The Work of the Federation is especially known in organizing summer children's camps at the diocesan properties in Libertyville, Shadeland, and Jackson, where, by work of the Federation, larger buildings were erected from that purpose.

At this assembly of the Federation of Circles of Sisters, which is held in their building on the Monastery property, the delegation was invited and warmly greeted. The delegation also was greeted at the banquet which was held at the end of the meeting, and all members of the delegation responded. However, in all those greetings the thought prevailed concerning the unity of the Serbian Church and the Serbian people, which unity is needed to them in immigration, and to us, in the old country. And when this great number of gathered sisters (probably about 300 with guests) sang in one voice: "Sumadijo, the place of our birth, to live there is like in paradise," and then in many eyes tears were seen, which are blessed, then we realized that the words on unity are not empty words.

Yes, it is a great work of the Federation of Circles of Serbian Sisters, and they deserve great thanks from the diocese. It should not be forgotten—that the present President of this Federation is Mrs. Andja Polich, wife of Mr. Theodore Polich, our great Serbian Church benefactors from Los Angeles.

3. This first Sunday, September 16, we spent in Libertyville. Holy liturgy was celebrated by His Eminence Metropolitan Damaskin. In addition to other clergymen, a member of the delegation, proto-deacon Father Branislav Petrovich, officiated. Since on that day the convention of the Federation of the Sisters was to be ended in the evening, so the Monastery Church of St. Sava could not receive all those who were gathered there. At the end of the service, His Eminence Metropolitan Damaskin handed to His Grace Bishop Dionisije sacred vessels for the Holy Communion, as a gift from His Holiness Serbian Patriarch German to the Church of St. Sava in Libertyville, for which His Grace Bishop Dionisije expressed thanks. Then His Eminence Metropolitan gave a sermon on Serbian saints and their meaning for Serbian people in history and at the present time. At this occasion it was mentioned that at the last meeting of the Holy Assembly of Bishops in June of this year, decisions were rendered on the establishment of the Names of Serbian saints and establishment of the Holy Day of the Holy Serbian Martyrs killed for Christ's faith. And these two facts, in addition to others, spoke to many present in the church that our Church is the fatherland is alive and that its spiritual strength was not drained.

III.

OFFICIAL DISCUSSING OF THE DELEGATION WITH HIS GRACE BISHOP DIONISIJE.

The main task of the delegation was to begin after the departure of the members of the Diocesan Council and the end of the convention of the Federation of Circles of Sisters, and that was the meeting and official discussion with His Grace Bishop Dionisije. This meeting was called by His Eminence Metropolitan Damaskin for Monday,

September 17, at the level of Bishops, since some questions which belong to the competence of the Holy Assembly of Bishops will be discussed, at least some of those questions. And this meeting of two Bishops, members of the delegation, with His Grace Bishop Dionisije, lasted from September 17 to 21, in the building of the Monastery in Libertyville, which serves as the Episcopal and Diocesan House, where the delegation stayed. Since the delegation was not authorized to render decisions, this meeting with His Grace Bishop Dionisije had an informative character: from His Grace Bishop Dionisije some explanations were sought in connection with matters which are previously mentioned, and to him certain necessary explanations were given. These were the matters which were discussed at this meeting.

1. As the first in order, the question of the elevation of the American-Canadian Diocese to the rank of Metropolitanate was touched upon. Immediately in the beginning of discussion, the delegation stated to His Grace Bishop Dionisije that he revoked his proposal in his letter to the Holy Synod of Bishops of the last year. He admitted that. But he nevertheless on this occasion explained that many reasons exist to support his previous proposal on this matter. The reasons are mostly external and less of internal nature. Namely, this diocese of ours in recent years is greatly enlarged. So now we have 74 parishes, in comparison with the year 1939, when we had 38 parishes and, according to latest information, about 200,000 souls. The diocese is well organized; it has qualified clergy, with a few exceptions, and large property by most church-school congregations. As such, this diocese enjoys certain reputation among Christian, and especially among Orthodox churches. However, all Orthodox churches in the United States of America are metropolitanates (at least we understood in

that way) and by that they are in the rank above our diocese. However, this proposal concerning the elevation of this diocese to the rank of Metropolia did not originate from him, as Bishop, but from the Church National Assembly in 1938, and then this proposal was renewed which corresponds to the truth. This, according to the words of Bishop Dionisije, would very positively resound among the people, which is very loyal to their church, and who sacrificed much, and on the other hand, the people will be more tied to its mother church when they see that the Serbian Church in the fatherland does not forget its diocese. We have to mention that these reasons the delegation heard later from other people, not as much from the clergy but from the laymen. In reply to this, the delegation explained how this question is connected with our Church Constitution. And since the change of the Constitution would provoke in itself other questions, it should not be insisted on this until after the Holy Assembly of Bishops discusses and decides this matter. After this, His Grace Bishop Dionisije stated that he personally does not insist on this.

2. The need of election of vicar bishops for the Diocese of America and Canada, His Grace Bishop Dionisije explained as follows:

(a) With the help of vicar bishops, a better and easier serving of this diocese will be secured, which is now in dimension very wide, and there are some prospects that it will be even larger.

(b) The help of vicar bishops is especially needed for performing more efficient supervision over church schools, both Sunday and catechismal, as well as supervision of schools in which the Serbian language is taught to Serbian youth. And at the same time vicar bishops would take in their hands direct supervision of these schools, which is impossible to the Bishop

himself. At the same time, help of vicar bishops is needed in supervision of the work of the Federation of Circles of Serbian Sisters, which expects and asks that.

(c) By the institution of vicars would be secured the administration of this diocese in case of the death of the Bishop, since by the Constitution it is provided that the Patriarch administers this widowed diocese, and the people would not allow that in any event, and a great confusion would be created.

(d) Finally, other Orthodox Churches in the United States are using this institution of vicar bishops, and in practice it was shown as very fruitful.

When His Grace Bishop Dionisije was told that our Church would not have anything against vicar bishops being given to this diocese, but only as vicars of His Holiness the Patriarch, as it was prescribed by our Constitution, he stated that this could not be accepted. It would be unacceptable because he would not trust such persons; and on the other hand, those vicars which would come from Yugoslavia—and because they are coming from over there—the clergy and the people in America would not accept them. After a discussion on this matter, seemingly a compromise was reached, namely that vicars be elected as vicars of His Holiness the Patriarch, but they should be from American-Canadian Diocese, and not as new for this Diocese from Yugoslavia. On this occasion His Grace Bishop Dionisije stated that he would himself propose candidates as vicars. But the next day, it seemed that he rejected this. In general, up until the day of the delegation's departure, he did not submit any kind of enclosure which contained this kind of proposal. But regardless of this, this kind of combination would be possible to realize, since America and Canada, as is known to the Holy Synod, we have candidates who could be taken into consideration for election of vicars for this

diocese, and concerning which a word will be said in this report later.

We could not do otherwise, but to pause at all these statements of Bishop Dionisije that candidates for vicars under no circumstances could be as new ones from Yugoslavia. We do not have reason to doubt that this is a sincere opinion of His Grace Bishop Dionisije. And it is not only his opinion. We heard this later on our trip from other persons. But we have the impression that it would be wrong to consider total exclusion of the possibility that as a vicars someone comes from Yugoslavia. We later heard from some other clergymen that this possibility is not excluded. Only in that case, this could be realized only if that candidate would be sent earlier, before election, and if some official mission will be given to him and possibly that he spent there several months so the clergy and people can know him.

3. Much of the time was also spent in the meeting with His Grace Bishop Dionisije in discussion on diaspora, and with his request sent to the Holy Synod of Bishops previously that to this American-Canadian Diocese should be extended to include South America and South Africa.

His Grace Bishop Dionisije explained his proposal like this. In South America there are ten Serbian parishes (in our notation we did not make how many, according to his opinion, there are parishes in South Africa). These parishes are served mainly by the Russian clergymen, or they are not served at all. No connection exists between these parishes and the American-Canadian Diocese, which is closest, and that circumstance that they are practically and totally deserted from our higher church authorities has its bad results. That is felt by the people, and because of that our men from over there turned to the diocese in Libertyville for spiritual help, and the Church is obliged to help

them. It is especially important that these parishes receive our Serbian clergymen. From experience we know that the Serbian parishes never progress in adequate measure if they do not have their own clergy.

In order that this part of our Serbian Orthodox Church be saved, added his Grace Bishop Dionisije, it is most natural that it be entrusted to the American-Canadian Bishop for administration, because Libertyville is incomparably closer to these parishes of ours than Belgrade. But to leave this question unresolved would mean exposing them to the danger that they would be completely dissipated. In giving significance to this question, the Diocesan Council of the American-Canadian Diocese, as we have learned from others, has assigned to His Grace Bishop Dionisije $5,000.00 in order to visit some of those parishes in South America. But until our arrival he had not done this probably because in the recent years he resigned from administering these parishes.

The delegation cautioned his Grace Dionisije that he was entrusted with the care of those parishes in South America, but that he himself in recent years renounced it. On this he replied that this was a very important question that it is necessary that the Holy Assembly of Bishops resolves it in the manner so that South America and South Africa would be added to the American-Canadian Diocese until conditions are not created for the creation of dioceses over there. To this kind of temporary solution that he govern those parishes by authorization of his Holiness the Patriarch he does not agree.

During this discussion his Grace Dionisije expressed several of his thoughts and proposals in connection with the Diaspora General.

a) He considers that for Australia a bishop should be consecrated because there are ten to twelve parishes

over there and more than 30,000 souls. However that continent is too far away from both America and Europe that those parishes could be easily administered from there. That is why some Orthodox Churches over there have their Bishops even with a fewer number of their members.

b) It is necessary according to the opinion of Bishop Dionisije to appoint a bishop for Europe and See in London or a Vicar who would reside in Europe; It would be necessary to elect a person as Bishop in whom our refugees have confidence.

c) This Bishop would have to be paid by the church and not by the State.

d) The Episcopalians offered to help support one of our Bishops in Australia for several years. The Serbian Chuuch—National Assembly would also help in this. After his Grace Bishop Dionisije mentioned that the American-Canadian Diocese could help the support of a Bishop for Europe and Australia.

e) In Paris there are over 10,000 Serbs. It is necessary that in Paris a Church center be created for the Serbian refugees. The damage is great but no attention has been paid to this.

f) On this occasion His Grace Bishop Dionisije declared that he did not send a circular letter to parishes in Western Europe that they break away from the jurisdiction of His Holiness the Patriarch, and that he did not reply to Milan Jovanovich to his letter concerning breaking away.

After the completed discussions with His Grace Bishop Dionisije concerning these subjects which were placed in the assignment of the delegation as the main subjects, we went on to other subjects, mainly to those which are mentioned already in the introduction of this report. They are these questions:

4. First of all, the question of changes to the Constitution of the American-Canadian Diocese was initiated. This question was initiated by the Bishop himself explaining that the time and circumstances, as also the development of the diocese, demand certain changes of this Constitution. That is why a special commission was appointed.

The delegation replied to his Grace Dionisije that it is not authorized to go in depth into this subject, that is the studying of the material of this subject itself, as to what could be changed and what can not. The delegation, therefore, does not have the right to debate concerning this. But the delegation declares in the name of his Holiness the Patriarch and the Holy Synod of Bishops the following: "If there is a proven need for changes in the Constitution of this Diocese, then this constitution can be in part changed, but those changes cannot be in conflict with the regulations of the existing constitution of the Serbian Orthodox Church but must be within their limits." They can in time when the subject is compiled, directed to the Holy Synod of Bishops.

5. Here in a mutual discussion were mentioned the questions concerning the constant absence of his Grace Dionisije from meetings of the Holy Assembly of Bishops and the decisions of the Holy Assembly of Bishops and the Synod (quoted previously in this report) that the Bishop "does not use his high church position for purposes which are not ecclesiastical." The delegation observed to Bishop Dionisije that not only does he act contrary to the Canons and regulations by not coming to the meetings of the Holy Assembly of Bishops, but that he does not send to the Holy Assembly of Bishops his annual report which also belongs to his duty.

Concerning the first subject, absence from the meetings of the Holy Assembly of Bishops, his Grace Dionisije cites that there were objective reasons and difficulties for this, but last year the Diocesan Council actually rendered a decision against his going to Yugoslavia. Now the Bishop declared that he accepts into acknowledgement this observation and recommendation, but he considers that still for a certain period of time he could not come over here, precisely in the interest of the church, as he added at the end.

In regard to the second subject, however, His Grace Dionisije considers that for that the relationship, under discussion, the fault is not only his. And he mentioned some cases. That is how he sought from our competent authorities (1954-55) to allow without tax or duty paraffin for the Patriarchate at that time when it was very necessary for the Patriarchate. But that paraffin arrived in Trieste and was sold there, and never did arrive to our church. In the same way Corporals were sent with great difficulty. Relative to this it was especially emphasized how the separation of the Macedonian church without the agreement of the Serbian Patriarchate caused the great revolt among our people in the United States of America, and in the same way the uncanonical visit of Bishop Naum to some churches of the American-Canadian Serbian Diocese. His Grace Dionisije had to issue a special circular against this through the newspaper. (Here is enclosed that circular under Number 1.) And on this occasion he protested against this. He mentioned some other cases which have disturbed that relationship which is ascribed to him. But at the end of the discussions his Grace Dionisije agreed with the point of view of the delegation that there are other ways of help by which our church can be helped, and he declared that "The diocese is prepared to approach a

lessening of sharpness with the State Authorities, but that state must also work on this." In this regard he mentioned several subjects which it appeared is especially of interest to him. These are: a) Certain duty tax relief for things which are sent to the Serbian Church and which actually serve for her renewal after the devastation of the war; b) The opening of one more Seminary so that the needs of the entire church for clergy would be satisfied, and c) the exemption from nationalization of the church property on Drachar in Belgrade, on which the building of the church of St. Sava had begun which was stopped during the war.

Concerning this last subject, the exemption from nationalization of the property on which the building of the St. Sava Church had begun, it appears that this year (1962) a great interest has been shown concerning this and for the beginning of an action for the collecting of donations, so that the church can be built exclusively from donations from immigrants. It would appear that this action had begun after the return from the old country of a number of the diocesan council and the Episcopal Deputy Arch Priest Milan Brkich, who published an article about this. This would explain that we, during our visits to many of the large parishes in the U.S.A., encountered in many of them this desire and plea—that the Holy Synod of Bishops by its endeavors helps to bring this about. We should not be surprised by this great interest of our immigrants for the Church of St. Sava because our great Saint is for them very dear and very popular. To them, it appears, he serves as a protection against dissipation as a people. This would explain that in our American Diocese there are more than 10 churches dedicated to him, more than there are in our entire Church, as was mentioned by one of our Priests on one occasion.

6. In these discussions of the delegation with his Grace Bishop Dionisije the time passed very quickly, and the determined limit of time approached when we had to conclude our discussions, since we, according to a determined program, had to begin our visits to the parishes and church congregations. Therefore, we hurried to use the remaining hours to treat the subjects which we could not neglect. We are talking here about comments which this delegation had to direct to His Grace Dionisije and concerning the complaints which exist against him on the part of individuals from the American-Canadian Diocese itself.

(a) The delegation of the Holy Synod of Bishops could not free itself from the impression, which it had even prior to arrival in the U. S. A., that the instituted action for the separation of this Diocese from the Serbian Church—if that action concretely and organizationally exists—is not without some connection with the person of His Grace Bishop Dionisije himself. That impression was strengthened by his circular letter of June 1, 1962, which was published in the newspapers over there, in which he sharply comes out against the Holy Senate of Bishops for not receiving his delegation, and in general because his demands are not being met, and which concludes with the words: "I today take all for myself every responsibility for the consequences which can issue. May God help us." (This circular is enclosed, which bears the title "Important Announcement" in the enclosures with this report under No. 2.) His circular letter to the Clergy is of a similar content (of similar content with regard to his relations toward the Serbian Church in the Fatherland) of July 25, 1959, in which he says, "Which Bishop, with a passport of the Yugoslav Atheistic Authorities, would be greeted in our Diocese with open hands? Who would recognize him and receive him? . . . A schism would be created . . ."

(enclosure No. [sic]). And even after the arrival of our delegation, that is, even after this our conference which we are here describing, he publishes in the *Canadian Srbobran* an article "Before the Arrival of the Patriarchal Delegation," in which, it is true he does greet the delegation, but again he brings out in public his demands which he directed to the Holy Synod of Bishops, and again in that same tone, and in the same manner as in "Important Announcement" (see enclosure No. 4). And that relationship of his towards the unity of the Church can be seen also from his letter directed to a private party (see enclosure No. 5). The delegation, therefore, had reasons, both on the basis of the above-mentioned and also on the basis of reports which it had received already in the first few days, to discuss this subject, that this is the type of behavior of his Grace Dionisije towards the Serbian Church, and towards the unity of the Church, to discuss it openly, and the delegation did this on this occasion, making clear to him comments on this his relationship towards the Holy Synod of Bishops, towards His Holiness the Patriarch, and the Serbian Church in general, which in no case could be tolerated.

It was especially commented upon to His Grace Dionisije why he gives that subject the subject of his polemics with the Holy Synod of Bishops which are purely of an internal church nature such wide publicity. "For is that the manner in which a member of the Holy Assembly of Bishops communicates with his Church?" "Why that is war. That is how one acts when all other methods of normal communication cease. And those means for you are always in existence and exist. You always could, if your mail is not adequately trustworthy, you could have sent your Episcopal Deputy or a delegate or a courier. Why send a delegation of the Diocesan Council? Why didn't you send

your authorized representative who could have in the See of the central church discussed the questions which interest you so much? Instead of this, we carry on polemics through the newspapers, knowing that we in the Fatherland do not receive those newspapers, and therefore are not even able to reply, and why all this?" This comment by the delegation was repeated to His Grace Dionisije in the presence of the Diocesan Council when this Council for the second time was summoned prior to our departure from the U. S. A.

Bishop Dionisije did not make any reply to this last comment, neither on this occasion nor in the presence of the Council. But in connection with comments concerning the separation of the Diocese from the Serbian Patriarchate declared, and he did this again several times at banquets, that he always was and now is for the preservation of the unity of the American Canadian Diocese with the Serbian Church and the Fatherland, and that he shall defend this unity as long as he is at the head of the Diocese. But that he cannot change his stand towards the governing regime, which is in unfriendly relations towards the Serbian Church, the reason for which—he considers—that the Church is not completely independent.

(b) Lastly, the complaints which exist in the Holy Synod of Bishops against him were dealt with. It could be observed that His Grace the Bishop expected his subject as the most important, and as the main purpose of this delegation. From the first day of our arrival he made allusions to this, and, naturally, he was not calm towards this.

The delegation yet in the beginning of the discussions concerning this subject stated that it did not come in the capacity of an investigative commission concerning this subject. Its purpose is, as had already been stated, to

discuss with him and with the representatives of the Diocese the questions which he initiated for the Holy Synod of Bishops, and to become acquainted with the conditions in the Diocese, and her spiritual needs. But the delegation is obliged to tell him that against them there exists in the Holy Synod of Bishops for the last number of years many complaints, both with regard to his work and also with regard to his life.—On this occasion the delegation did not enumerate all of these complaints, because it was not authorized for this. In any event, all the complaints against Bishop Dionisije were not even taken. But he was forewarned that among those complaints there are such that the Holy Synod of Bishops could not easily overlook, and that something sooner or later would have to be undertaken. Therefore, on the part of the Holy Senate of Bishops, it is recommended to him that he does not give cause for complaints, and in addition to this, to find a means to smooth out and to cease in that sharpness and that unfriendliness felt by those towards him who do not have any other way out, but to turn to the Holy Synod with complaints against him.

His Grace Dionisije said that these complaints against him can exist from a variety of reasons, as of a personal nature and also of a political nature. Because over there among them there are various groups, and it wouldn't be surprising that someone, especially for those political reasons, desires to spite him or to hinder him in his national work. But he, by reason of the discussions of this subject, demands and requests that everything which exists against him, be sent, and that he will then give his reply to every complaint.

Since our delegation during the course of the first several days of its stay was informed that the delegation would be subsequently given new complaints against Bishop

Dionisije, with this we concluded our discussion concerning this subject. And subsequently in this report will be entered information concerning these new complaints which will be enclosed with the report.

7. The last subject discussed at this conference between the delegation and His Grace Dionisije was concerning the nuns for the monastery at the Most Holy Mother of God in Shadeland.

Shadeland is a large diocesan estate about 500 miles away from Libertyville and near Pittsburgh. This property was purchased by the diocese several years ago; as we have learned there is still a debt on the property. In our notes, we do not have the accurate size of this diocesan property, but in any case it is larger than 100 acres; we had to go around it by auto. Earlier that was a prominent estate, I believe, for livestock. Now a great deal of it is wooded, and the remainder are fields and pastures and land for cultivation. There are several good buildings on the estate; and in recent years Mrs. Polich built a large modern building for the children's camp. In addition to the home for the aged where our men reside, there is also a small chapel. The estate is administered by a Priest Monk who serves in the chapel from time to time. The building of a large church on the estate is now being planned and already a collection of donations for this purpose has begun.

According to the words of His Grace Dionisije, a convent needs to be founded here. And when the very nice location of this estate is taken into consideration, its richness and also its distance from the larger cities, it must be admitted that it would correspond to its intended purpose. Only the question is posed as how to get some nuns. Since it is the desire of our people over there that that be a Serbian Monastery and not a Russian one, His Grace the Bishop then turns to his Holiness Patriarch German

with the plea that he send him from the Fatherland some of our nuns, at least 4 or 5 in the beginning, in the belief that that number will quickly increase from the midst of our Sisters over there. It is necessary, as he says, only to begin with God's help with several experienced and spiritual nuns, and he is convinced, considering the facilities which exist there, that that would be able to become one of our spiritual centers.

And now, during our conversations, His Grace Dionisije complained a great deal as to why His Holiness did not accommodate him in this request of his. Understandingly great significance that a well-organized convent with such wealth could have for our diocese in the U. S. A., the delegation immediately wrote to His Holiness and sincerely recommended the desire and plea of His Grace Bishop Dionisije. The delegation also does this on this occasion, considering this as a very important question which needs to be given attention.

With this the conference of his delegation with His Grace Bishop Dionisije was concluded on September 21.—During the second part of the conference the third member of the delegation, Protodeacon Branislav Petrovich, also participated, who was absent only when discussions concerned complaints against Bishop Dionisije.

IV.

VISITS TO PARISHES AND CHURCH CONGREGATIONS

On September 23 our visits to parishes, that is to parishes and church congregations of our Serbian Orthodox American-Canadian Diocese began. These visits would last until November 26.

Before going on to describe our visits, we will mention our visits to our State Representatives in Chicago and New York, as also the Embassy in Washington. Everywhere the representatives of our country greeted the delegation very accommodatingly, placing at our disposal their service and help insofar as it might be needed. In Pittsburgh it was not possible for us to do this; but our consul on two occasions visited the head of our delegation, expressing an interest in the condition of the delegation and for any eventual needs. Therefore, we deem it on this occasion as our duty to express our acknowledgment to our representatives, which we have done at the appropriate place after our return.—Since during our travels in California we arrived in San Francisco in the evening, and already we had to leave in the morning to go further, since we were expected according to a predetermined program already in another place that is in Los Angeles, the delegation was not able to pay a call on our representatives in San Francisco, and so upon our return to Chicago, we informed them of this.

Concerning our visits to our parishes, it was originally planned that we visit only the larger parishes, and that only on Sundays and on greater holidays. However, when it was seen how large a number of our parishes desired to see and greet the delegation, it was decided to also make visits on week-days. And only in this way could we succeed in visiting a larger number of our parishes. But in addition to using week-days for this purpose, it was sometimes necessary for the delegation during the course of one day to visit two parishes, and in one to serve the Holy Liturgy and in the other Vespers. And there were occasions when the delegation had to split up, so that on one day one Bishop member of the delegation would serve in one parish while the other would serve in another parish. Although a program such as this—which was not possible to shorten

—required obviously a great deal of effort, the delegation nevertheless, with God's help, succeeded in carrying it out to the end. That program with all of its component parts (Divine services, sermons and greetings to the people, banquets, many speeches and greetings of the delegation of His Holiness the Patriarch and the Serbian Church, speeches by members of the delegation, conversations and explanations and at the end concerts with elaborate programs from the field of Serbian national music and folklore). So our delegation within a period of 64 days of constant movement, from September 23 to November 25, inclusively, visited 39 churches and parishes (including here Libertyville where we served the first few days, prior to our departure to visit the parishes). Enclosed with this report is a list of the places visited, together with a map of the U. S. A. (see enclosure No. 6).—The largest number of the parishes visited are located in the States: Ohio, Pennsylvania, Illinois and California.

On this journey His Grace Dionisije was not always with the delegation. He was in several places, as in Chicago, St. Louis, South Bend, Indiana Harbor, Joliet, Pittsburgh and Los Angeles, where he served together with the members of the delegation. The remainder of the parishes the delegation visited alone. Nevertheless, it must be admitted that His Grace Bishop Dionisije was accommodating towards the delegation, as during its stay in Libertyville, so also in general, and he showed brotherly concern that everywhere means of transportation was made possible for the delegation, as well as lodgings on its journey; towards this end His Grace Dionisije issued a circular letter to the Clergy to brotherly receive the delegation, and also to collect donations for our Patriarchate (see enclosure No. .... [sic], even though during the course of our journey the head of our delegation always issued a qualifying statement con-

cerning this, emphasizing that that was not the purpose of our journey, but that the purpose was the manifestation and establishment of the unity of our church).

Concerning the reception itself, which the delegation encountered on this journey throughout the American-Canadian Diocese, that truly is not easy to describe in a few words. Such a brotherly and sincere reception greeted the delegation everywhere, both on the part of our Clergy and our God-loving Serbian people. The attitude of the Clergy towards our journey can best be seen from the resolution of the Clergy of the Episcopal District for the Midwest rendered on October 4, when we were already on our journey, and which we cannot do otherwise but to enter it here in this report in its entirety. It states:

RESOLUTION OF THE SERBIAN ORTHODOX CLERGY OF THE AMERICAN-CANADIAN DIOCESE IN THE EPISCOPAL DISTRICT FOR THE MIDWEST

The Serbian Orthodox Clergy of the American-Canadian Diocese, in the Episcopal District for the Midwest, at its regular meeting held at St. Sava Monastery in Libertyville, October 4, 1962, under the presidency of the Episcopal Deputy the Very Reverend Arch Priest Milan Brkich,—relative to the question of point 2 of the Agenda, which states, "our stand with regard to the relations between this Diocese, our Patriarchate in Belgrade," and upon a hearing the report of the Very Reverend Father Brkich, the official emissary of our diocese to the Serbian Patriarchate in Belgrade, which visit he recently made—and after a detailed discussion of the present condition in our diocese, and in connection with the arrival and stay of the delegation of the Holy Assembly of Bishops from Belgrade, unanimously renders in full brotherly accord, the following:

RESOLUTION

1. We firmly stand on the position of full and dogmatic and canonical unity with the Serbian Orthodox Church in the fatherland, headed by his Holiness the Serbian Patriarch and the Holy Assembly of Bishops, which are competent to decide upon all dogmatic—canonical questions of the American-Canadian Diocese, in accordance with the Holy Canons of the Orthodox Church, the Constitution of the Serbian Patriarchate and the Constitution of the American-Canadian Diocese.

2. We most sincerely and as sons greet the delegation of the Holy Assembly of Bishops, headed by His Eminence Metropolitan of Zagreb Damaskin, the representatives of our martyr mother church.

3. We most sharply condemn and reject the provocative, unreasonable and untrue writings of some immigrant newspapers, in connection with the mentioned delegation.

4. We firmly condemn all unkind, unfounded and provocative attacks of individuals and groups upon the high church dignitaries of our Holy Church, on the occasion of their visits to our parishes and Serbian Centers in America and Canada. (Note Footnote #1).

5. We very warmly recommend to our church congregations and people to sincerely receive the delegation of our Holy Church, to invite and receive them in a Serbian and Orthodox Christian manner, and to give them an opportunity to come into a direct connection with as large a number of our people as possible in our diocese, as expressed in the directive recommendation of our competent

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(Footnote #1) This reference refers to an incident in Cleveland, immediately at the beginning of the journey of the delegation to the parishes, concerning which a word will be said in this report, as also concerning some attacks in the newspapers.

Bishop Dionisije, of August 18, 1962, directed to all clergy, church school congregations and members of the Diocesan Executive Board and Court.

6. We request from the Executive Board of our Clergy association of the American-Canadian Diocese in accordance with its By-laws to immediately summon a special assembly of the association, (See Footnote #2) and we request from His Grace Bishop Dionisije to summon an assembly of the entire diocesan clergy, in order to present us the opportunity to greet the delegation of the Holy Assembly and Bishops together.

7. Request the editorial staffs of our Patriotic Newspapers in America and Canada to publish this resolution.

PRESENT:

"Here follow the signatures of sixteen (16) priects (see Enclosure No. 3)."

This relationship and such disposition of our Serbian Clergy in this Diocese towards the delegation and towards the unity of our church was witnessed to not only in the above mentioned Episcopal District, but everywhere, wherever the delegation appeared. For the delegation it was a joy and a spiritual rest to spend in their hospitable homes a few moments and in some places a day or two, and to become acquainted with their zealous work in the church and in the school. And how close the delegation was to them could be judged by this also but many of them, not only twice but even three and four times visited the neighboring parishes that they might again participate with the delegation and divine services.

(Footnote #2) The clergy Association later had its assembly which our delegation was greeted, which was present, which will also be reported in this report.

The delegation encountered the same kind of brotherly and sincere reception on its journey from our Serbian God Loving people, everywhere, without exception. One should really have seen how in such great numbers they greeted the delegation and attended the Divine Services and sermons! And one should really have seen those banquets and those affairs in honor of the delegation! And likewise to hear their greeting speeches, directed not only to the representatives of the church but to our entire Serbian Church and to our people! Who could recorl all of that and reproduce it!—The head or the delegation therefore on two occasions mentioned at banquets that our delegation actually did not have any need to speak about the unity of the Serbian Church, because the people themselves so expressly and enthusiastically manifested this everywhere,—and upon our departure one needs only to hear their greetings to their church in the old country! • • • • "Give our greetings to our martyred church" • • • • "Give our greetings to our Country!" • • • "Do not forget us•"—perhaps one of our older priests was correct when he commented to us that our coming provoked more tears than joy. So let it be. Tears, it seems, make us more sober and understanding.

When we were departing for this journey we were told by a number of people in Belgrade, that we should not be surprised if over here we encounter unfriendly dispositions or perhaps even obstacles, and this on the part of those who are against every connection with our Church in Yugoslavia. And we did, naturally, think about this. However those attacks did never find any great expression, and certainly they didn't have any results. Since we did not have time to read the newspapers at all, we only heard from time to time from our friends about some article in the "Serbian struggle" against the delegation, or in some

circular. (In the enclosures with this report there are two such articles under No. 9). And so we, having been greeted on our journey everywhere so friendly and sincerely, have completely forgotten about those warnings received prior to our departure from Belgrade. Nevertheless ....

One evening, returning to our lodging after a concluded banquet which was prepared in our honor and one of our larger parishes, the head of the delegation inquired of the president of the church congregation, who was driving us with his car, and who had another person beside him:

—Tell me, Brother President, is that brother sitting next to you also a member of the Church School Congregational Board?

Oh, no, Your Eminence. He is a Police Detective, our Serb.—

—My, Woe betide me! Why a detective,

—Do not be surprised, Sir Bishop,—our new acquaintance would remark—why the six of us guarded you all day. We will not allow any "bright heads" to ruin our receptions which we have prepared for our Dear Guests from the old country.

And afterwards we learned that this was not a singular instance of this kind. And then we even became suspicious when during our visits to some parishes, we were met by the police on motorcycles or in automobiles, and thusly went to the procession to the church. Our people told us that that was all "for the sake of a parade." Perhaps this was so, but also perhaps it was because of those "bright heads." From this can be seen how much effort and care our people here have made not only to prepare a reception for the delegation, but also to assure its security.

Thanks to God's help, and very possibly the mentioned concern of our brother clergy and other brethren and sis-

ters, this entire journey of the delegation throughout the diocese was conducted without any instance and without any mishaps. That which transpired in Cleveland was not any attack upon us. To the contrary, that was our reaction to the ubecoming request of the Pastor there that the delegation give an explanation concerning the Macedonian Church and concerning the requests of Bishop Dionisije, but especially that was our reaction to the speeches of Bishop Dionisije made up to then, in which and in the presence of the delegation he very sharply and crudely attacked our country and thereby brought our delegation in a very difficult position and simply made it impossible for us to perform our church mission for which we had come. So the head of the delegation was forced in his speech to call to the attention of the Pastor there that the Serbian Church knows its duty and that it performs its duty; that she works, but does not speak much, and that he too would need to act in this manner. This was told to him publicly in the presence of a small number of people present (about twenty people or so). And on this occasion the head of the delegation sharply commented to Bishop Dionisije not only in the room, that he no longer would allow in any way such behavior on his part and his provoking delegation, and that the delegation will publicly before everyone sharply come out against him, if this is repeated. After this the delegation left the parish house and traveled further according to its prescribed program. —The result of this little conflict was surely positive for the delegation, because after this Bishop Dionisije did not in the presence of the delegation act in this manner, and everything was in order. And concerning the Executive Board of the Cleveland Church Congregation, its President and Secretary met with our delegation five weeks later in Aliquippa, on the occasion of our visit to Aliquippa, and

invited the head of the delegation to come in May of 1963 and to consecrate the new church in Cleveland, for which they will bear all traveling expenses.

In this chapter were mentioned some Articles in the newspaper concerning our delegation, and only one newspaper was mentioned. Actually, in the USA there is a lively interest on the part of our Serbian press for church life and also concerning the church problems and questions. However, it was not possible at all for our delegation to follow those comments concerning our journey in the press. Such an informative service was not organized at all, and this is what we lacked. We were only informed from time to time concerning some published articles in connection with the visit of the delegation. Regardless of our incomplete information on this subject, it was well known to us how interested in this matter—both in regard to the arrival of the delegation, so also in regard to the energetic defense of our church unity and lawful ties. Was the newspaper *Voice of the Canadian Serbs,* which is published in Windsor (Canada); which immediately after the "important announcement" of Bishop Dionisije, published several professional articles in benefit and defense of the Serbian Church; and it acted in the same manner on the occasion of the arrival of the delegation in the USA, by its articles in behalf of the delegation was undoubtedly of help to it, since the newspaper itself enjoys the nice reputation also among our immigrants in the USA. We believe that we will not be in error if we say that the credit for this belongs both to the editor and also to the Archpriest Stevan Lastavica and M. Mijatovich.—Unfortunately, we do not have on hand all of those articles and are not able to enclose them here with this report. However, in case of need they can easily be obtained.

As we have previously mentioned in this report about how the delegation was greeted on its journey in the speeches of the clergy and representatives of the church congregation and other national organizations, and upon our reception in the churches, and during banquets, we consider it necessary to enclose with this report three such speeches of greeting, from which can be seen how they viewed this journey of our delegation (enclosure No. ...., a, b, and c, of which a significant speech is that under a).—Enclosed herewith, as enclosure No. .... also The Resolution of the Congress of the Serbian National Defense in America concerning the unity of the Serbian Church ("Slovoda" of July 15, 1962).

Lastly, in this chapter, during our description of our journey throughout the Diocese, we will again mention the collection of donations on the part of the parishes and church congregations for our church in the fatherland. This collection of donations was recommended to the clergy by his Grace Bishop Dionisije. But this would have probably been done even without that, since our hospitable people always gladly sacrifice for the church. So also this time donations were collected for our Patriarchate, even though we, as we have stated before, expressed our reservations about this. According to that circular letter of Bishop Dionisije, the donations were to have been sent directly to him, and in the beginning while he was with us on our journey, they were handed over to him. But after this the priests have told us that it is the general wish of all that these donations be given to us directly, as if that would be the surest way that they would be used according to their intentions. And so the delegation received these donations and according to a list of donors, submitted it to the Holy Synod of Bishops. Subsequently another donation was sent

from Steubenville in the name of the head of the delegation, and it too was sent to the Holy Synod of Bishops on the occasion of the transferring of these donations, the delegation asked His Holiness the Patriarch to issue a directive that all donors be sent a receipt of acknowledgement of the receipt of the donations.

V.

IMPRESSIONS AND OBSERVATIONS DURING THE VISIT OF THE PARISHES

Perhaps it would be expected from this delegation while submitting this report, to submit also a detailed statistical data concerning this diocese, which would certainly be necessary. But it is not possible for the delegation to do this since it did not have time to gather them, even though it thought about this. And so the delegation requested of His Grace Bishop Dionisije to send every year from now on to the Holy Synod of Bishops his yearly report, and to send this data at the first opportunity.

Instead of that, the delegation will bring out only its impressions about the church congregations and parishes which it had the opportunity to visit, as also certain data and observations concerning pastors, and concerning the monasteries.

1. Immediately in the beginning it was established that there had been a great growth in the number of parishes in the church congregations during the last twenty years; there was a similar such growth in the number of pastors, which is a very encouraging fact. The delegation had the occasion to hear that that was not only to the credit of His Grace the Bishop, but that that entire progress is shown thanks to the great interest of our people for their church organization, which they view not only as a moral

strength and foundation for the preservation of their religious and spiritual life, but also for the preservation of their language and their national heritage. However, although it cannot be denied, for the important participation of our people themselves cannot be lessened in this progress of the diocese, it is nevertheless obvious that in all of this, great credit cannot be denied to the competent bishop, and in this case His Grace Bishop Dionisije. Because we can note that without the Bishop, or against his will, truly nothing could be done. Consequently we were not very much surprised when we heard of the participation of Bishop Dionisije and this entire progress of the diocese and his credit for this having heard other opinions, namely opinions which spoke a great deal to his benefit. One such opinion, which could not be easily overlooked, we enclose with this report as enclosure No. 7 (last page of enclosure).

2. Thanks to the mentioned sacrifices of our people for the progress of the church, the church congregations which we had the opportunity to visit are truly in a very good economic position. Each of them has a very nice church, well kept, and clean. The churches are frequently large and truly serve as a declaration for that region. The tendency is observed that they are for the most part built in the Serbian Byzantine style, such that a visitor is surprised when at such a distance from the fatherland he notices a transplanted Gravanica or Grachanica or some other of our ancient memoral churches. The desire for the preservation of our style goes so far that even for some churches the Holy Icon-screens are ordered from as far away as Serbia and Macedonia. Alongside, the Church always built a very comfortable parish house, and together and decides that a building or a section for the church school, and also

a large hall for church functions. It was a surprise for us to hear that for these church buildings, together with the temple, the cost in some church congregations was up to a million dollars.—That is why it did not seem unrealistic to us when our people began to speak with enthusiasm that they would easily collect the necessary money for the building of the church of St. Sava in Belgrade.

But the interest of our church congregations is not limited only to the building of churches and church buildings. No. All of this serves them as a center around which our people continually gather. Their entire life is concentrated around the church. Naturally, they attend in large numbers regularly the divine services, that is the Holy Liturgy and that is mainly on Sundays and on greater holidays. Insofar as many, for practically all of them come here by cars, frequently from great distances, a place is provided by the church for the parking cars. Because of this, when they are lacking such a place, they build in time their new church center on a larger piece of property, in order to satisfy this need.

The principle object, besides the church in this church center, is the hall, which is always very large and beautifully decorated. Our people very frequently gather in the hall. In some of the church congregations every Sunday, after services, all of them go to the hall for dinner. And here now the activities of the circles of Serbian Sisters find expression. They prepare dinner for everyone, and serve it at a nominal cost from which nevertheless the church congregation has a certain gain. But here are always found benefactors who increase that gain. We observed--and that is the complete truth—that in most cases, if not in all, the use of alcohol is completely excluded. That is why in some church congregations the hosts look upon their guests from the Old Country as with a certain apology and there were

cases where even exceptions were made—probably with a desire to charm their dear guests into feeling that they are actually among their own.

And yet, these church halls do not serve exclusively for dinners and banquets. Their main purpose is for the holding of affairs, church and cultural national ones. Concerts of the church choir are frequently held there, which are well organized in all the places and which regularly sing in church, under the direction frequently of a professional choir leader, and which are always in a close cooperation with the Serbian Singing Federation which provides them with the necessary church and secular musical literature. Besides this, other affairs are held in the church halls: lectures, concerts by our school children, dances, if the hall is not tied to the temple, and especially affairs dedicated to the Serbian National songs and melodies and folklore. For us it was truly a surprise to see the rich programs from these fields which were prepared because of our coming and with what success. It could not remain unnoticed that in these latter functions, most frequently the principal organizers were the priests themselves and their wives. That is one activity which it could be said is expected of them.

The conscientiousness of our people shown in the church congregations with regard to the significance of the church schools is amazing, as how much is invested in their maintenance. Church schools exist everywhere. And these are not only Sunday Schools for catechism, but they are departments for religious education, and departments for teaching the Serbian language, for which classes are frequently held during the course of the week. Since it is not possible for the pastor alone to perform all of those duties in those departments, he is given auxiliary personnel; most frequently they work on a volunteer basis, but on occasion

sometimes with an honorarium. What kind of task that is and how great it is can be seen from the fact that in some parishes there are up to 500 school children. And since a large number of rooms are required for such a large number of children, the Executive Board of the church congregations zealously concerns itself with providing the necessary classrooms and space, so that when a person enters one of those buildings, he gets the impression that he is in a real school. Yes, undoubtedly, a great deal is invested in that, in order to preserve the second, third and fourth generation of our immigrants.

No. 3—As far as the Clergy are concerned, in this diocese there are no vacant parishes which can easily support a priest. Therefore, a lack of Clergy is not felt. The flow of Clergy from the prison camps after the Second World War helped a great deal in this regard. But most likely, that need will soon be felt. Because there are a large number of elder priests in parishes, while the training of younger priests, it would seem, is not being given enough attention, when for now they only have one student in our seminary in Belgrade.

The priests whom we have met on our journey leave a very good impression. All of them, with minor exceptions, have theological training, and this for the most part obtained in our theological schools. The number of those who have graduated from our theological faculty is not small. But besides these, there are several graduate students from the former seminary in Libertyville (during the time of the Bishops Nicholai and Irinej of Blessed Memory) and several who have graduated from the Theological Institute of St. Vladimir in New York (under the jurisdiction of His Eminence Metropolitan Leontije).

As we are informed, the Clergy are adequately materially taken care of by their church congregations. They receive

in addition to a residence, completely furnished and provided with necessary furnishings, a regular monthly salary, and they are also given an automobile, since without it it would be impossible to serve the parish, which is frequently scattered throughout small places, in distance of up to 100 miles or more from the center. Likewise, the question of pension insurance is solved for the Clergy. This, therefore, explains that such a materially secure Clergy can completely dedicate themselves to their work in the parish and school, to regular visitations of the sick, to render services to their parishioners, who constantly turn to them, and to work in the cultural, educational, and national organizations.—The church congregations succeed in providing the means for supporting their Clergy, as also in satisfying the other needs of the church, mainly by the collecting of regular monthly dues from their members.

Our delegation have the opportunity to become acquainted with many of our Clergy of this diocese bearing our visits to the parishes. But it found itself in their midst at a Special Assembly of the Clergy Association in South Bend, on November 19th, to which the delegation was invited and sincerely greeted and received, and to which the head of the delegation in his reply shared with them his favorable impressions of our travels throughout the diocese, which were already approaching an end. There, at this Assembly of the Clergy Association, the delegation unfortunately was a witness to an unpleasant event, actually a conflict between a larger number of the Clergy present and His Grace Bishop Dionisije who, together with us, was present at the Assembly, but which conflict speaks in adequate measure on the disturbance of relations between a certain number of the Clergy and the Bishop. When later, after the departure of His Grace Dionisije, these attacks continued upon him, —now already in the parish house and not in the hall as

before—*our delegation declared to the present Clergy that the delegation cannot in any way participate in this kind of a discussion in the absence of the competent Bishop.* The participants in the Assembly were directed to continue their conference in the hall and not here in the parish house and to continue it without us. And if anyone has anything to report to our delegation, let him do that by way of submitting written statements. But before these participants of this Assembly left the parish house, one of them, an archpriest, directed to his delegation a statement which the delegation, in addition to its above-mentioned qualification, heard him out and noted what he said as follows:

> Up to now, Bishop Dionisije himself was to blame for the moral and spiritual conditions in his diocese, and he bore the full responsibility. But now, after the arrival of the delegation, and after the given information concerning the transgressions of Bishop Dionisije, the delegation itself and the Holy Synod of Bishops have to bear the responsibility.

Let us also say a few words about our last meeting with a group of our Clergy on this our journey, as also with the representatives of the diocese, which was at the second meeting of the Diocesan Council, summoned by reason of our departure all night on November 23rd in Libertyville. Present there was a smaller number of priests (some have told us that all are not invited). At this meeting it was expected, according to the words of His Grace Bishop Dionisije, that the delegation report on its impressions of its journey. And the delegation did this, expressing its gratitude to his Grace Dionisije and to the Diocesan council for the extended hospitality. In the statement of the delegation of this occasion the doubtless progress of church congregations and parishes was constituted with satisfac-

tion, as also the progress in the church schools at which time a constituted need was expressed: that the purely spiritual work and influence of the church be strengthened in addition to all else; that on holidays vespers and matins be celebrated; that a uniformity in the work in the church schools be realized and that for this purpose the necessary text books be prepared, etc.

4. Having visited on this journey the church congregations and parishes, we also visited monasteries. As we have mentioned earlier there are three monasteries in the diocese: In Libertyville, Shadeland and Jackson (in California). It has also been mentioned earlier that those are truly large properties, and one could not do otherwise but to express recognition to the diocesan counsel which, it seems, is always ready to help the opening and development of monasteries as spiritual centers, and also his Grace Bishop Dionisije, who always shows a great interest for this, and invests his efforts. Only in spite of the great wealth which is represented by these monasteries, in them are lacking monks, so that in them there is no monastic life, but they are more adapted to service children camps. In each one of them there is only one priest monk, and during our time regular daily divine services were held only in Libertyville. Besides this, it was a great surprise for the delegation to hear that all three of these monasteries are quite in debt—it was a surprise because it is known how much our people sacrificed for that. And unfortunately the delegation had the opportunity to hear comments about this fact frequently.—The delegation did not obtain accurate data concerning those debts.

VI

VISITS OF THE DELEGATION TO REPRESENTATIVES OF OTHER CHURCHES AND SCHOOLS

On its journey through the American-Canadian Diocese, the delegation made visits to several representatives of Orthodox Churches in the United States, as also to representatives of the Episcopal Church, to the National Committee of the World Council of Churches and to Theological Schools. These representatives of the Churches, Theological Schools and Institutions were visited.

1. Beattitude of Metropolitan Leonty, in his private residence in Sayoset, near New York. The delegation was detained there for supper and his Grace Iriney, Vicar Bishop of New York was present. On this occasion the delegation expressed thanks for the cooperation of their clergy with ours, which had as a result that many of them visited us during our travels and served together with us. Prior to this we visited their cathedral.—According to information received, this Russian Church jurisdiction has about 350 parishes in the USA, including Alaska and Canada.

2. Beattitude of Metropolitan Anastasy, in New York. We visited him in the presence of his Grace Nikon (the last name Rklitski) and Archpriest Grade. After our greeting his beattitude expressed his greetings to his Holiness German and to the remaining brother bishops of our church. During this meeting the delegation considered it its duty to touch upon an unpleasant situation, namely that conflict which existed in recent times between some of their clerics and our diocese, because of which there were frequent attacks in their newspapers against our bishop over there. His beattitude the Metropolitan explained that actually there does not exist any kind of unfriendliness on their part against our church. The conflict was provoked by his

Grace Dionisije himself by his expressed attitude against the Russian church because of the case of the Archbishop Germogen of Blessed Memory, and because of him blaming the whole Russian Church.

3. His Grace Bositej, representative of the Patriarchate of Moscow in New York. We asked him to kindly extend our greetings to his Holiness Patriarch Alexa of the part of our Patriarch Gegamon and our Delegation.

4. The Russian Archbishop in Pittsburgh, His Eminence Benjamin.

5. His Eminence Iakovos, the Greek Archbishop of New York who is also one of the predators (sic) of the World Council of Churches. We also spent a longer period of time with him, becoming informed of the progress of their Church in the USA. The Greek Church is the most numerous in number of faithful in the USA. They have five Diocesan Bishops, but they are subordinate to the Archbishop in New York. His Eminence Iakovos invited us kindly as his guests to go to Baltimore and to visit their theological schools, the middle and higher ones, but because of lack of time we were unable to do this.

6. The Greek Metropolitan in Pittsburgh, His Eminence Theodosius.

7. The Russian Orthodox Theological Academy of St. Vladimir near New York. Among the instructors in this school are also two of our own: Professor Kesich and Father Archimandrite Firmilian, the Pastor of our church in New York. Several of our younger priests receive their theological education in this school. And now we have two students there: One is a stipendus of His Grace Scaife, Bishop of Buffalo, and the other—of the Church Episcopal Circles in New York. Here also a ceremonious reception was prepared for us after which we were truly surprised

by the good impression left both by the students and the teaching staff.

8. The Carpatho-Russian Orthodox Theological School in Johnstown, although small is very nicely organized as a new institution, which at one time the director was our Priest Monk Dosiattej.

9. Union Theological Seminary in New York. That is a United Theological College for Protestant Churches with great resources (funds), and therefore it has large buildings where married students also live, a very rich library, which also has Orthodox Theological literature, and a large staff of professors. There we saw how nicely a tape recorder can be used by students during the correction of their diction or in general during their delivery of sermons. Some of our students were here earlier who obviously left a good impression after them. The Director of the school received us in a very friendly manner, gave us a detailed explanation of the organization of the school as also of their new methods of teaching. After this he held a tea for us which was attended by several of his professors with their wives.—As we understood it, the possibility exists that we send some of our students to this school, that they would receive a stipend.

10. The Most Reverend Bishop Lichtenburger, the presiding Bishop of the Episcopal Church in New York. Since the Episcopal Church in America takes a prominent part in the action of the World Council of Churches in the collecting of donations for other churches and even for our church, and mostly through its national committee, the delegation on this occasion then expressed to the Most Reverend Bishop Lichtenburger greetings from His Holiness Patriarch Germogen, and at the same time expressed gratitude for the help of their church in this period. The Most Reverend Bishop expressed thanks for the visit and

the meetings and, in replying with a greeting to His Holiness, remained with us in a lengthy conversation, during which he showed an interest in the conditions in our church. In accordance with his desire, we also took a photograph with him.—During our visit to his Grace Lichtenburger a high functionary of their National Committee of the World Council of Churches, the Very Reverend Canon Doctor Pepper, was also present, who then took us to his office and acquainted us with their work.

11. The Episcopal Bishop of Buffalo His Grace Scaife, who is known as a friend of our Church and a great admirer of His Holiness our Patriarch, and who recently accepted one of our young priest as his stipendus in order to further his studies in America. He also was one of the very influential members of the World Council of Churches. We visited him together with our priest from Lackawanna, Archpriest Miodrag Djurich.

12. The Canon of the Episcopal Church in New York, Edward West, whom we visited together with our Pastor from New York, Father Archimandrite Firmilian, and who also indicates a great interest in our church and in our students—Theologians in America. At the tea given us by Reverend West was also present His Grace Bishop Donigan, the Episcopal Bishop of New York, a great friend of our church, and with whom we discussed the possibility that a little chapel might be assigned to us for our newly organized parish in Washington.—Since during this visit to Rev. West we were already alongside the Episcopal Cathedral of St. John the Divine in New York, we also visited this well known church in which one of the twelve altars is dedicated to the Serbian Orthodox Church and decorated with our icons.

13. The World Council of Churches, the National Committee for America, in New York. There we were very

warmly met by Mr. Raymond Maxwell, the former Secretary of the Council for the Balkans, who acquainted us with the higher functionaries of the Council. On that day, October 4th, in the facilities of the Council of Churches a dinner was prepared for the delegation, which was attended by fifteen members of the Council and higher functionaries, and at which, in addition to greetings directed to the delegation, great interest was shown for the life of our church and of church conditions, and especially for our theological schools and for the rebuilding of churches destroyed in the war. In addition to this first visit to the National Committee of the World Council of Churches, the delegation had the opportunity to once again meet with the more prominent members of this committee, namely, immediately prior to our departure from America on November 26th, His Grace Bishop Scaife held a dinner for the delegation in the name of the Council of Churches, in the Columbia University Club, at which were present in addition to the others, Archbishop Iokovos, one of the presidents of the Council of Churches, and the Bulgarian Bishop Andrej. In his greeting speech to the delegation, the president of the Council expressed the sincere desire to soon see the Serbian Church enlisted in the membership of this great ecumenical movement, considering it as very significant that the Serbian Church could add a great deal with its experience and advice. The President of the delegation, expressing thanks to this greeting, utilized this opportunity in behalf of our church to thank them for their interest in our needs and in the help thus far rendered. As far as membership of our church is concerned, he emphasized that although our relationship toward this organization is such at the present, it is in no way passive in its relation to this movement, but follows its work with a lively interest, which can be seen

from the recent gathering in New Delhi where she sent her delegates as observers.

14. The Serbian National Federation in Pittsburgh. Because of the visit of the delegation to our Federation, which in past years has given complete cooperation to our Diocese and to His Grace Bishop Dionisije, the Federation prepared a reception in its facilities, and the following day a supper. On both of these gatherings our delegation was very sincerely greeted, and the unity of the church was once again emphasized as a vital necessity for our Serbian people.—On the occasion of the supper which the Pittsburgh Church Congregation prepared for our delegation three days later, and which was attended by representatives of the Serbian National Federation, the delegation presented to the Federation as a gift a Gusle which we brought for that purpose from the fatherland.

15. Finally, may we mention here that the delegation, during its stay in the USA, visited these representatives of the Russian Orthodox Church, to-wit: His Eminence John, Archbishop of Versailles and Brussels, and His Grace Anthony, Bishop of Geneva, who at that time were in the USA, and also his Eminence Seraphim, Archbishop of Chicago, all from the jurisdiction of his beattitude Metropolitan Anastasy.—His beattitude Metropolitan Anastasy also expressed a desire to return our visit, but we were already near our departure, so we thanked him for his kindness.

VII.

CONCERINING THE CHARGES AND ATTACKS AGAINST THE AMERICAN-CANADIAN BISHOP

Prior to its departure on this journey the delegation was aware of the fact that the Holy Synod of Bishops received certain complaints against the American-Canadian Bishop.

Since it was also placed in the assignment of this delegation, among other things, to "become more closely acquainted with conditions in the Diocese," the delegation could not do otherwise but to pay some attention to this question. The delegation, in order not to transgress against its conscience and completely disregard the vital interest of our diocese, considers its duty to completely and objectively bring out this information about this subject.

During our journey our delegation did not conduct any open public discussion about this subject. Because finally it was not directed to do so by the Holy Synod of Bishops. But regardless of that the delegation had the opportunity during its journey, quite frequently, to hear the opinions concerning this, even though it did not pose any open questions itself about this. There were cases but that opinion was in the form of the mentioned Enclosure No. 12, together with Page 28 of this report (the last page of the enclosure), namely, where Bishop Dionisije is given credit for progress achieved in this Diocese and for his national work. But more frequently, perhaps very frequently, those opinions were different: those were sharp remarks and criticisms directed towards his person, both with regard to his personal life and in regard to his work. And we had the opportunity to hear such remarks also on the part of persons whom we considered were close to him and would defend him more. The most frequent criticisms were in regard to his personal life; relative to this, those remarks were most frequently coming from the priests themselves, which is understandable when it is known that we came mostly in contact with them.

Under such circumstances, the delegation could not do otherwise but to require of those who had something against the Bishop, to submit this in writing to the delegation, or

to subsequently send that submission to the Holy Synod of Bishops. Since many of them hesitated to do this, being afraid of revenge or complicated court proceedings which could be initiated against the complainants—and which the Bishop emphasized, requesting from the Holy Synod of Bishops that these charges be sent to him for reply—the delegation in several instances indicated that they did not necessarily have to send him the names of those who are submitting the complaints, if for this there exists a justified reason. And what that revenge was like which the priests feared can be seen from some letters which have recently been received by the President of the delegation. In this regard a prominent priest, an Archpriest, writes relative to the above mentioned remarks and criticisms directed to the Bishop in his presence that the Priest Assembly in South Bend (November 19th) this: "Truly I am ashamed since you had to listen to all of those stories which were not pleasant at all to you. Now a real 'hue and cry' against those who talked. How this all end!" In another one, a layman writes: "He (The Bishop) is furious and seeks revenge as never before. Save us your Eminence, for God's sake and St. Sava's sake, from this mad beast ...."

The delegation received 16 submissions on the above subject, concerning the subject of criticisms against His Grace Bishop Dionisije, including in this number also the "Serbian Missionary," No. 15 of 1962. Enclosed here together with this report are these submissions in the second part of the enclosures, under Nos. 13-28.

VIII

PROPOSALS

In submitting this report, the delegation is of the opinion that the Holy Synod of Bishops will itself vest and formulate the corresponding proposals for the Holy Assembly of Bishops, on the basis of the report itself. However, since in the decision of the Holy Assembly of Bishops, Holy Assembly No. 19/Min. 50 of June 12, 1962, recommended that the delegation do this, "to submit concrete proposals for the next session of the Holy Assembly of Bishops," the delegation hereby, at the end of its report, submits the following proposals.

1. The delegation is of the opinion that the question of administering our church congregations in South America and South Africa should certainly be considered of primary importance, and that it should be resolved by adding these territories to our American-Canadian Diocese. For the present there is no other possibility of resolving this question. If for such a solution to this question the person of the present American-Canadian Bishop constitutes an impediment in obstacle, we should also bear in mind that that same impediment in obstacle appears with regard to the present administration of the American-Canadian Diocese.

2. The elevation of the American-Canadian Diocese to the rank of a Metropolitan is undoubtedly a matter which our people over there desire; and this would be received by the people with great enthusiasm and with great recognition to our Serbian Church, and more strongly strengthen the unity. The fear is completely unfounded that by this the possibility would be increased for an easier separation of this Diocese. Because if it came to that, that separation could be carried out even if this Diocese would remain as

it is. And that is true that this question has been initiated back in 1938. However, since this is tied to a change of the Constitution, and together with this, it is now more important in every case to clear up the conflicts concerning the person of the Bishop, then this question could be saved for a later time; only it must be kept in mind.

3. Of all the questions and problems which are now ending in this Diocese the most important is the question of the election and appointment of Vicar Bishops. This is all the more important precisely because of, as it appears, the shaken dignity and authority of the present Bishop. If a fortunate election of the Vicar were to take place, this in itself would significantly improve conditions in the diocese, even if that painful question of the present Bishop were not immediately and finally resolved. Therefore, without delay the election of Vicar Bishops should take place, and this, naturally, only in accordance with the regulations of our Church Constitution, that is, that these Vicar Bishops be Vicars of his Holiness the Patriarch. There would not be any special criticisms against this, especially if candidates from the Diocese itself would be taken into consideration.

Concerning the question: How many Vicar Bishops should now be elected, taking into consideration the expanse of this Diocese and the need itself (visiting of the diocese, supervising the church schools and other church—educational institutions, development of the three monasteries, etc.), there is every indication that three Vicars should be elected, or at least two. As far as supporting them is concerned, that truly does not constitute an unsurmountable obstacle. This is keenly felt over there. Because in this the Diocese would not have any material damage, but to the contrary, only benefit, because the financial

conditions in the Diocese would improve, and only in this way, so that those new expenditures for Vicars would not be difficult [translator's note: Two lines on page 40 at the bottom did not reproduce—text continues as follows] The last two letters of the name Udicki—Ki, Rector of the Parish in Youngwood, an Archpriest Father Stevan Lastavica, Rector of the Parish in Windsor (Canada). Besides these three, who are known as Candidates in circles over there both among the clergy and the laity, the delegation had in mind as candidates also His Grace Stefan, Bishop of Dalmatia, and his Grace Sava, Bishop of Morava. Of these first three candidates the most prominent over there, in both the Clergy and laity circles, especially in the latter, is Father Archimandrite Firmilian; and His Grace Bishop Dionisije himself placed his candidacy in the first place. Father Archimandrite Gregory Udicki also enjoys a good reputation, and thus appears as a candidate, it would seem, was out [sic] opposition. The same could be said about Archpriest Father Stevan Lastavica, who is criticized only for an inadequate knowledge of the English language.

4. Concerning the submitted submissions against His Grace Bishop Dionisije, the delegation is of the opinion that for this purpose a special commission should be appointed which would study that entire subject matter. Only, in so doing, care must be exercised concerning this, and appropriate methods used, in order not to give rise to the possibility that this subject does not provoke civil court proceedings over there concerning the legal accountability of the accusers, which is always cited by the Bishop.

5. The delegation is of the opinion and takes the liberty to request of His Holiness Patriarch German and of the Holy Synod of Bishops for action so that practical contacts of our church that is, of the Holy Synod of Bishops with the American Canadian Diocese continue more

intensively, so that the visits to this Diocese be conducted without fail at least once in two years, and to make possible as soon as possible a visit by his Holiness to this Diocese.

6. Since many parishes and church congregations express the desire even now to immediately begin supporting some of our seminarians at their expense, steps should be taken through the diocesan authorities to bring this to a realization.

7. The delegation takes the liberty once again to mention the needs of sending four or five nuns for the monastery at Shadeland, which would be of benefit for this Diocese, and even more for the strengthening of the influence of our church in it, and so on this occasion would recommend that this be done as soon as possible.

8. Finally, the delegation is of the opinion that as far as the help from this diocese is concerned for the building of the church of St. Sava in Belgrade, the initiative is now left to the Holy Synod of Bishops.

Metropolitan of Zagreb
Signed Damaskin
Bishop of Bachka
Signed Nikamor

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 197A

(photocopy certification omitted)

To the Holy Synod of Bishops
Belgrade

By the decision of the Holy Synod of Bishops No. 1986/min. 265 of 1963, we were assigned the duty, because of the proceedings initiated against Bishop Dionisije, to travel to

the U.S.A., and to conduct a hearing of the accused and of witnesses, to perform the collecting of evidence and concerning our findings of the situation to submit a report to the Holy Synod of Bishops with all the related documents for further competent proceedings.

(Enclosure No. I)

We were unable to conduct a hearing of the accused because he opposed it. Already prior to our meeting with him he issued a circular letter (on Vidovdan 1963) in which he writes: "I cannot go to any kind of hearings and talks with this commission . . . with this commission I will utilize the right of contact by way of correspondence."

(Enclosure no. II).

When upon the intervention of his closest co-workers (Dr. Nicholas Stepanovich, Dr. Urosh Seferovich and Mr. Svetozar Maravich) he did receive us (and then not in his residence but in a restaurant), he refused to give answers to questions and again insisted on this, that with him we only correspond in writing.

(Enclosure no. III)

Since we could not "get a word" from the accused, we undertook the hearing of witnesses and of collecting proofs.

According to the submissions received by the Holy Synod of Bishops, Bishop Dionisije is first of all accused of *behavior unbecoming the priestly rank and position* (art. 214, point 2, C. S.O.Church).

(Enclosure no. IV—Submissions:
the priest Dushan Popovich of Chicago, bishop Sava Saracevich of Edmonton, popadija (priest's wife) Stojanka Kovacevich of Indiana Harbor, Stojan Lazarevich of Chicago, Archpriest Paul Zelich of Steubenville, Archpriest Stevan Prostran of Joliet, priest Momchilo Djujich of Gary, the priest Vladimir Milinkovich from Indianapolis, the priest Mladen Trbuhovich of San Diego, professor Milutin

Devrnja from Buffalo, excerpts from the article of Dr. Dushan Silaski in the paper *Jedinstvo* (unity), the article "Black Dionisije" by Dobrosav Jevdjevich in the paper *Serbian Independence*).

By reason of these submissions we conducted a hearing of Mary Alice Drito, of Shadeland, who in the presence of two witnesses confirmed that Bishop Dionisije, having found her alone in a room, attacked her and attempted to rape her.

(Enclosure no. V—the hearing of Mary A. Drito on July 27, 1963)

We obtained also the statement of archpriest Emilijan Glocar of Akron, that Bishop Dionisije did this same thing also with his wife Bosiljka.

(Enclosure no. VI—statement of archpriest Emilijan Glocar of July 14, 1963)

We also established that Bishop Dionisije actually attempted to persuade popadija (priest's wife) Stojanka Kovacevich to avoid conception and gave her advice as to how to do this.

(Enclosure no. VII—statement of Stojanka Kovacevich, from Indiana Harbor, given on July 21, 1963 in the presence of the pastor of Chicago).

Archpriest Stevan Prostran, from Joliet, reported that Bishop Dionisije, in his home said to the archpriest's daughter-in-law that everyone could hear: "You know Madame, my rear end has become so callous that it doesn't feel the blows any more."

(Enclosure no. VIII—statement of archpriest Stevan Prostran of Joliet)

Raja Milinkovich, of Lackawana, testified that the assertion is correct in the statement of professor Milutin Devernja, that Bishop Dionisije, in the early morning of

the day of the monastery patron saint celebration at Shadeland in 1957 or 1958, came accompanied by some woman at the place where the lambs were barbecued, engaged in off-color jokes with the young men, tasted the lamb, and after this celebrated the Holy Liturgy.

(Enclosure no. IX—statement of Rajo Milenkovich, from Lackawana, given on July 29, 1963, in the presence of prof. Borko Borcich and Archpriest Miodrag Djurich of Lackawanna.)

Bishop Dionisije sought from the priest Vladimir Milinkovich of Indianapolis, that he persuade a girl from his parish (Evelyn Petrovich) to go with the bishop in his car on a trip through California, with the assurance "that for her it will not be bad."

(Enclosure no. X—statement of priest Vladimir Milinkovich and his wife Ljubica, given in Canton on July 18, 1963, in the presence of archpriest Dushan Klipa, the episcopal deputy from Clairton.)

The Former president of the Serbian National Federation, Mile Radakovich, complained to Archpriest Stevan Prostran of Joliet, that Bishop Dionisije attempted to molest his daughter Mary.

(Enclosure no. XI—statement of Archpriest Stevan Prostran of Joliet, of October 21, 1962, repeated to the Investigating Commission on July 24, 1963).

Bishop Dionisije is also accused of *material abuses.*

(Enclosure no. XII—statement from a speech of the priest Momchilo Djujich at the priests' Assembly on November 19, 1962, in South Bend, which was attended by His Eminence Metropolitan Damaskin of Zagreb, and His Grace Bishop Nikanor of Bachka;

A letter of the priest Momchilo Djujich of September 24, 1962;

A submission by prof. Milutin Devrnja of June 9, 1962;

A letter received by His Eminence Metropolitan Damaskin on November 27, 1963, from Chicago).

We were not given the possibility of examining the material business of the Diocese and Bishop Dionisije's; however, that it is not in order is witnessed by the report of the Board of Control of July 15, 1963, which when only on the occasion of examining the administrative business at the diocesan property of Shadeland, found the following irregularities:

(Enclosure XIII—Report of the Board of Control on the Monastery of the Most Holy Mother of God in Shadeland, Pa., of July 15, 1963).

The Church-school Congregation in Akron, Archpriest Emilijan Glocar from Akron, and the Church-school Congregation in Chicago, sent by way of checks made out to the Patriarchate, through Bishop Dionisije, as donations in the total amount of $2,337.00—

Bishop Dionisije cashed these checks signing in the name of the Patriarchate, obtained the money—but according to the report of the Patriarchal Executive Committee of July 19, 1963, he did not forward it to the Patriarchate, nor did he send an accounting of this.

(Enclosure XIV—Photostats of 3 checks with the signature of Bishop Dionisije, that he cashed them, and report of the Pat. Exec. Committee, notarized by the American Consulate showing that the money was not received).

Bishop Dionisije is further accused of *Violations* against Church Order (art. 214, point I, Const. of the Serb. Orth. Church)

(Enclosure XV—submission of Archpriest Dushan Klipa, of Clairton, concerning the case of Abbot Mitrofan Kresojevich, as also from the priest Mladen Trbuhovich of San Diego).

From photostats submitted by Archpriest Dushan Klipa, it can be seen that Mitrofan Kresojevich, pastor of Stevan Nemanja Church, by his own admission, was sentenced by state authorities for homosexuality.

This same man, after this was elevated to the rank of proto-singel, and then to that of an Abbot, and today is a pastor in Cincinnati, Ohio.

(Enclosure XV).

Bishop Dionisije knew that the graduate Seminarian, Dushan Vavich, now pastor in Trieste, was ill from epilepsy and that he was under police investigation because of a connection with a little girl of age 11, but nevertheless he ordained him a priest.

(Enclosure XVI—An official report of Archpriest Milan Brkich, Episcopal Deputy from Milwaukee of August 2, 1963).

But Bishop Dionisije began a series of violations against Church order after the Holy Synod of Bishops suspended him and placed him under the court and suspension of priestly functions by Decision No. 1664/min. 188 of May 10, 1963.

By a circular letter of May 25, 1963, Bishop Dionisije announced to the clergy and people: "I do not recognize the penalty adjudged to me . . . nor do I recognize my suspension from sacerdotal (priestly) functions."

(Enclosure XVII—Circular letter of Bishop Dionisije of May 25, 1963).

In Act No. 194 of June 3, 1963, Bishop Dionisije writes to the Holy Assembly of Bishops and Synod: Acknowledging receipt of Acts No. 164 of January 1st and 188 of May 10th of this wear, declaring:

"I do not recognize the decision of the Holy Assembly of Bishops and Synod concerning the division of this one diocese into three new dioceses nor my suspension and deprival of governing the diocese nor will I surrender the duty all up until the Diocesan Church—National Assembly."

(Enclosure No. XVIII—Act of Bishop Dionisije No. 194 of June 3, 1963).

What's more, Bishop Dionisije by a circular letter issued on Vidovdan 1963, called for breaking away from the Mother Church also the Church Congregation in the Diaspora inviting them:

"I accept under the wings of this diocese all Church Congregations in the entire world, which do not wish to submit to Belgrade."

(Enclosure No. XIX—Circular letter issued on Vidovdan, 1963 in Libertyville, entitled: "The American-Canadian Serbian Church Triumvirate").

Although suspended, Bishop Dionisije on June 7, 1963, relieved Archimandrite Firmilian from the duties of Episcopl Surrogate and on June 12th of this year relieved the Episcopalian Deputy Archpriest Milan Brkich from his duties and also Archpriest Dushan Klipa of Clairton and further stated:

"I call upon all Serbian Clergy and all Church School Congregations not to obey the directives of the new administrators: Archimandrite Firmilian, Archimandrite Gregory Udicki, nor those of Archpriest Stevan Lastavica, but rather for all their needs and questions to turn to our diocese, the diocesan office and to us,

who together with the Diocesan Executive Board and the Church Court govern this diocese."

(Enclosure No. XX—Act of Bishop Dionisije directed to Archpriest Firmilian in the circular letter of Bishop Dionisije of June 12, 1963).

June 29, 1963, Bishop Dionisije issued an order to Abbot Simeon Grozdanovich at Shadeland:

"Yesterday a new commission arrived from Belgrade—two bishops, one archpriest and one protodeacon. We have here decided that they cannot be received at the monastery nor at Shadeland. . . . They will look for a place where they can tonsure Archpriest Stevan Lastavica, and afterwards to elevate him as a bishop. I forbid that he be tonsured a monk at Shadeland. Therefore, if they appear there and attempt to do this, you cannot open the chapel to them nor receive them at all."

(Enclosure No. XXII—Photostat of the Act of Bishop Dionisije of June 29, 1963).

On the occasion of the meeting with members of the investigating commission on July 5, 1963, Bishop Dionisije declared that he stands by all of his circular letters and statements which he made before and after the decision of the Assembly and Synod.

(Enclosure No. III—Minutes compiled in the "Indian Club" in Libertyville on July 5, 1963).

Of all the decisions which the Holy Assembly and Synod of Bishops rendered, Bishop Dionisije adhered only to the decision concerning suspension from priestly functions. On August 2nd of this year, on the day of St. Elijah, he also violated that suspension and celebrated Matins in the monastery of St. Sava in Libertyville.

Proof . . .

(Enclosure No. XXII—Photograph of Bishop Dionisije yearing a stole taken on August 2, 1963, by Daniel Simich from Chicago, and the statement of record of Protodeacon Bozidor Tripkovich and Daniel Simich, who on August 2, 1963, were present at the Matins in the monastery in Libertyville).

The investigating commission was unable to "again hear Bishop Dionisije" as ordered to do by telegram of July 30th, because Bishop Dionisije only one day earlier refused to meet again with Bishop Hrisostom in Chicago or vicinity.

(Enclosure No. XXIII—Statement of Protodeacon Bozidor Tripkovich of August 9, 1963. That Bishop Dionisije did not accept the proposal of a repeated hearing which was insisted upon by his mediator, Archpriest Branko Kusonjich of Cleveland.)

Submitting this report concerning the conducted investigation together with the entire evidentiary material, we request the Holy Synod of Bishops to please appoint a prosecutor who will on the basis of the enclosed documents, write the indictment.

Enclosures . . . Twenty-three
Faithful to the Holy Synod of Bishops
August 10, 1963
Belgrade

Bishop of Branichevo
s/ Hrisostom
Bishop of Banat
s/ Visarion

(translator's certification omitted)

PLAINTIFFS' EXHIBIT 217

(copy certification omitted)

[110] Thereupon the plaintiff called as a witness the

RT. REV. DIONISIJE MILIVOJEVICH,

who, being first duly sworn, testified as follows:

Direct Examination of Rt. Rev. Milivojevich

By Mr. Zucker:

Q. State your name.

A. My name is Dionisije Milivojevich, Right Reverend Bishop of the Serbian Eastern Orthodox diocese for the United States of America and Canada and designated to take temporary charge of church affairs of all territory outside of Yugoslavia.

Q. Are you a citizen of the United States?

A. Yes, I am.

Q. You stated you are a bishop of the Serbian Orthodox Church in this country?

A. Yes.

Q. Will you tell the Court in your own words how you became a bishop of the Serbian Church in this country?

Mr. Strangward: I object. That is a self-serving declaration, that he became bishop.

The Court: He can recite how he became a bishop. It is a question whether it has any bearing on the issue in this case.

A. I became a bishop by election of the Bishop House of the [111] Serbian Orthodox Church in Yugoslavia; that was in 1928; and I was consecrated as a bishop by His Holiness Serbian Patriarch Gabriel.

Q. And what was your status in the Church when you came to this country?

A. They elected me and consecrated me for the Bishop, with duties of possessing and taking spiritual care of our diocese here in America and Canada for Americans and Canadians of Serbian descent.

Q. Who appointed you for that position?

A. This appointment was made by the Holy Synod and His Holiness Patriarch Gabriel of Belgrade.

Q. Now prior to your coming to this country did you hold any positions in the Church in Yugoslavia?

A. I was two years vicar-bishop of His Holiness Patriarch of Bucharest. And before that I had previously a couple of positions as professor of canonical laws and other positions teaching in our seminaries and our schools in Yugoslavia.

Q. How long were you with the Church either as a clergyman or in any other position?

A. From 1926.

Q. Now, are you familiar with the canon laws and the ritual discipline of the Orthodox Church?

A. Yes, I am.

Q. Will you state just briefly what the Orthodox Church is, [112] the nature of the Orthodox Church?

Mr. Strangward: If the Court please, it is my understanding that the ritual is different in various Orthodox denominational churches and I believe that the witness should be asked if he is acquainted with the particular ritual in the particular church we have involved here.

The Court: Are you objecting?

Mr. Strangward: I object to the question for the reasons I have stated.

(Argument had.)

The Court: I don't see any great objection. I will disregard any testimony not proper.

A. A Christian church, and especially a Christian orthodox church, has its own denominational rules recognized by everyone national church in the whole world.

The Court: In where?

The Witness: In the whole world, recognized everywhere by every nation and through every century. For instance in every nation it is the same in teaching, in dogma, in belief. We have the same creed, we have the same sacraments, we have the same ritual, we have the same church discipline, but we may [sic]

[113] The Court: Well, who is the head of your church?

The Witness: The head of all church?

The Court: Of your church.

The Witness: Of my church the head is my Patriarch in the Holy Synod in Belgrade.

The Court: Now, what is the connection of the Holy Synod of Belgrade and the Holy Synod in Bucharest; is there any connection between the two?

The Witness: Yes.

The Court: What is the connection?

The Witness: The connection is in teaching in the same discipline, in the same ritual, but not in jurisdiction, not in jurisdiction. Every national church has, according to the holy canons, its own privilege to elect a bishop who heads some organization inside that country, and other churches couldn't get around in their church in a different name. There is one authority in the Roman Catholic Church, —that is the difference. We have one head for every nation, for every bishop, no matter from which nation the bishops are. Then we are ruled by Holy Canon. Those holy canons are written by the ecumenical councils. The ecumenical councils [114] are supreme courts composed of all bishops from all countries, from all states. They were

gathered several times and made the denominational by-laws for all Orthodox churches, no matter for which nation; but they designated in Apostolic time that every nation has its own right tc elect bishops inside of this nation, and to have a head, supreme head, patriarch, archbishop, metropolitan for that nation, and to have local national councils for small affairs in their own church. And no church could interfere in the affairs of that national church. For instance, I am elected Bishop in my own church, in my own nation. I couldn't go to elect a bishop for a Rumanian church or for a Greek church, for instance. This is done by their own Bishop's House. This is done as the basis of general rules of general holy canons which are written for all churches, orthodox churches, but with the provision they may be done for each nation, separate among their own bishops in the same manner. One bishop could not be consecrated from one bishop. It should be three, or two, at least two. The first canon, Apostolic canon, and our first ecumenical council, has provided that two bishops, at least [115] two, or three could ordain another bishop, but that should be done by the supreme head or bishop of that nation. That means by the Holy Synod, a Patriarch or Patriarch Metropolitan or Archbishop, how it is called, the head from that nation. One bishop cannot be consecrated by anybody else, no matter who are the other persons. A bishop could be consecrated only by three or two bishops which have Apostolic, so-called Apostolic sanction, that means Apostolic succession. If I am ordained—

Mr. Strangward: Well, I object to that.

The Witness: I will finish in one sentence. The bishop who consecrated me, he should have consecration from one canonical bishop, and one regular bishop, who would consecrate canonically, and one who is Apostolic. So our church

is called Holy Apostolic Church. If one bishop isn't consecrated by a bishop, he can't prove that he is consecrated by a canonical bishop, he is not called a bishop.

Q. And you say the canon laws for your church are the same as the canon law for the Rumanian Church?

A. The same.

Q. Under those canon laws can people, laymen or anyone else, elect a party to become a bishop

[116] A. No, no and no.

Q. Whom do you recognize as the Bishop of the Rumanian Orthodox Church in this country?

A. I recognize—

Mr. Strangward: I object, if the Court please.

The Court: Sustained.

The Witness: I am recognizing as the Bishop—

Mr. Vintilla: Just a minute. You can't answer.

Q. Now, Bishop, did you receive a letter from the defendant Ioan Trutza?

A. Yes, I believe.

Q. About when was that?

A. Let me look.

Q. Do you have that letter?

A. I have. Yes, I received it.

Q. I will hand you a letter marked for identification Plaintiff's Exhibit 10, dated April 4, 1951, and ask you to examine this and state whether this is a letter which you received from Rev. Trutza?

A. Yes, this is a letter of Rev. Trutza.

(Plaintiff's Exhibit 10 offered in evidence; objection by defendant; argument had; offer withdrawn.)

[117] Mr. Zucker: If the Court please, Mr. Vintilla, who is more familiar with the facts, I am going to ask him to go ahead because I am not as familiar with the facts as he is.

The Court: All right.

By Mr. Vintilla:

Q. Now, Bishop, as an expert on the canon law of the Serbian Orthodox Church and as an expert on the canon law, can you state whether the canon law of your church is the same as the canon law of the Rumanian Orthodox Church?

A. I think, with your permission, I don't know. This is the United States. We are citizens here, and the United States is recognizing each church, its own right to rule, and having their own rules inside for their own church.

Q. Yes, we understand that.

A. That means for your church, that means for my church, that means for Jewish church or any other.

Q. Now, will you answer the question as an expert, as to whether or not you can state whether the canon law—whether you are familiar—

The Court: I think he has answered.

A. I could say that the canon law, holy canon law is the same holy canon for every ortho church, either Russian or Rumanian or Serbian or Greek, in America, each recognizing the holy canons, with some exceptions. Even the Roman Catholics are recognizing holy canons which we have with [118] some additions of their own. These holy canons are recognized by all churches.

Q. As an expert can you state as to how a bishop or an individual is elevated as a bishop in a Rumanian Orthodox Church?

A. The same as in the Serbian.

Q. How is that?

A. The Bishop House is electing a Patriarch; the Holy Synod is consecrating him.

Q. Can anyone else in the Rumanian Church other than the Patriarch in the Holy Synod elect and consecrate a bishop for the Rumanian Orthodox Church?

A. No. In that church will be one, a united and one Rumanian Church.

The Court: State that again, that last part.

Q. Would you repeat that last part?

A. For one church has a Serbian and has a Rumanian, is one united, not divided, not separate, two or three. No one can elect, nobody can consecrate a bishop for that church, for that people except the Holy Synod Bishop House and the Patriarch who is the head of this church.

The Court: Let me get that statement. If the particular church isn't separated, then you say a bishop can only be elected.

[119] The Witness: Yes.

The Court: If it is separated, different rules apply, is that correct?

The Witness: If, for instance, in the Russian Church, for instance, in the Russian Church in America, any American Russian Church governed by metropolitan delegate, he has recognition as a bishop from the Patriarch in Moscow, and this is a separate church, it is under his jurisdiction, his own bishops, and he might elect a bishop for America without asking the Patriarch in Moscow.

The Court: Why is that?

The Witness: Because when a nation is bigger, when they like to have their own churches, they form, according to holy canon, a separate church body.

The Court: That is because they have sufficient bishops for apostolic succession?

The Witness: Yes.

The Court: And that is why they can separate?

The Witness: Yes, and it happened, too, for instance the Greek Church in Athens, in Greece.

Q. Now, excuse me a minute, going back to the question what do you mean by separate—when you used that term?

A. I mean separate when it is recognized by the Eastern Church [120] as under the church body. For instance, if our Serbian Church in America, like to have a separate body and from our Patriarch of Belgrade we may get, or if we could get permission to be a separate, to have a new church body, and permission to come from our Patriarch, from the Holy Synod in Belgrade, from the Bishops' House in Belgrade, so that in that case we have a right to elect our own bishop here, but not in this case.

Q. Now in order to separate under the canon laws, in order to separate from the Mother Church, must they have permission from the Holy Synod of that church?

A. They must.

Q. Suppose they do not have permission from the Holy Synod and separate?

A. In that case they are schismatic.

The Court: They are what?

A. Schismatic. In that case they are anathematized by their own Mother Church, under the canon laws.

The Court: Let me get that. There is a schism, as I understand?

The Witness: Yes.

The Court: If there is a schism then that group of that church that partakes of that schism is separated and autonomous and independent of the Mother Church?

The Witness: Yes. In this case if [121] they would obtain the recognition of their church's head, such as the Patriarch, that group would be recognized canonically as a new church, but if not it is schismatic.

The Court: And if they are recognized do they have a right to conduct their own churches administratively, canonically and spiritually?

The Witness: Yes. But they must have recognition from their Mother Church, from their supreme church, from their Patriarch, from their Holy Synod.

Q. According to canon laws which govern the Rumanian Orthodox religion, can you as the Serbian bishop of the group, or Serbian bishops elect and consecrate a Rumanian Orthodox bishop?

A. I couldn't do that without permission of my Patriarch and the Holy Synod. Even I couldn't elect a new bishop for Serbian churches here without my Patriarch gives permission or Holy Synod's approval.

Q. Now, under the canon law, if, let's say three Ukranian bishops elect or ordain and consecrate an individual as bishop for the Rumanian Orthodox Church, can they do that under the canon law?

A. According to my knowledge of the holy canon and the rules in our church those gentlemen, Ukranian people, are not bishops.

[122] Q. Are you familiar with the Ukranian prelates who consecrated Viorel Trifa?

A. I am a little familiar; I know the history about that. They are self-elected bishops, and the laymen elected him as a bishop against a general rule and canon of our Ortho Church. Their Patriarch and his group is not recognized by any ortho-church as a bishop and as a church.

Q. Then is it your opinion they cannot give apostolic succession then?

A. No, no. Well, Mr. Trifa is just a good gentleman; he is not a bishop.

Mr. Strangward: If the Court please, the question of Trifa's consecration is not the subject of this lawsuit. I

object to the answer and ask that it be stricken from the record.

The Court: That part of the testimony will go out.

Mr. Vintilla: We are attempting in our prayer to enjoin the defendant from acting in the name of the Rumanian Orthodox Episcopate in any manner or fashion whatsoever, and this defendant, acting as the bishop, Rumanian Orthodox bishop, if we prevail, we are wanting to enjoin him from acting as such. He is a defendant in this case.

The Court: As an individual?

[123] Mr. Vintilla: Yes, as an individual.

The Court: I will let the testimony stand. I will separate it later.

Q. Now, in your opinion is the defendant Viorel D. Trifa canonically elevated as a bishop, according to canon laws?

A. He is not.

Mr. Strangward: I object to his opinion as to whether or not Rev. Trifa has been consecrated bishop, unless he is qualified to state he was present at the ceremony and knows what was done.

The Court: He has testified as an expert and he says that he is familiar with the canon laws of the Rumanian as well as the canon laws of the Yugoslavian church, and being familiar with the canon laws of all the orthodox churches throughout the world. That is his testimony. If you want to question his ability as an expert I will permit you to cross-examine him on that. Now, as an expert he says that in his view unless he is elected by another bishop he cannot act. That is his opinion as an expert.

Q. Now, who do you recognize as the canonical bishop of the Rumanian Orthodox Churches in this country?

Mr. Strangward: I object.

[124] The Court: Sustained. That is not expert testimony, whom he recognizes. You can develop the facts. In his theory as an expert laymen cannot elect a bishop. Now, that is what he said.

Mr. Vintilla: That will be all.

Cross Examination of Rt. Rev. Milivojevich

By Mr. Strangward:

Q. Bishop, you have been a member of the Serbian Church for many years, since 1926?

A. Yes.

Q. And you have studied the religious philosophy particularly orthodox philosophy?

A. Yes, I studied many things.

Q. Are you acquainted with any procedure in any of the orthodox churches which might require the nomination of candidates for a bishop by the people within the diocese first and then the Holy Synod, the Patriarch thereafter consecrating the person nominated by the people within the Episcopate,—are you acquainted with any procedure like that?

A. I am not familiar with any single evidence that laymen or any convention of laymen or any commission of laymen should elect a bishop.

Q. You are not acquainted with any procedure like that?

A. No.

[125] Q. Let me ask you this: in your Serbian Church, do you have a church congress that meets each year?

A. A Bishops' House Congress.

Q. You have a Bishops' House Congress?

A. Yes.

Q. Do you have any church congress made up of the priests and lay delegates from the various churches that meet?

A. No.

Q. So you are not acquainted with that type of procedure?

A. It is not existing in our orthodox church.

Q. So that a system that was governed in that manner, that system which you say isn't existing in orthodox churches—

A. It is only maybe in some other groups, not ortho, other groups.

Q. Any church that had that sort of procedure would not be an orthodox church?

A. Other churches may have that rule; they may elect a bishop from the laymen mixed with priests in some convention, but not in any orthodox churches.

Q. In other words, not in any church that is run like the orthodox church you belong to?

A. No, I am not acquainted with it.

Q. Bishop, I don't want to confuse you, I want to get the facts.

A. Yes.

Q. I am not talking about the consecration of a bishop.

[126] A. I understand that.

Q. There is a definite procedure that one must go through to become a bishop, is that right?

A. Various steps.

Q. Now, do you know of any procedure in any of the orthodox churches where the people who were within a diocese or within an Episcopate nominated candidates to become a bishop?

A. I don't know.

Q. You don't know?

A. I don't know.

Mr. Strangward: I have no further questions.

Mr. Vintilla: That will be all, you may step down.

• • • • •

PLAINTIFFS' EXHIBIT 223

SERBIAN ORTHODOX AMERICAN-CANADIAN
DIOCESE
ST. SAVA MONASTERY, LIBERTYVILLE, ILLINOIS

April 15, 1957
No. 11

To all Serbian Orthodox clergy of the
American Canadian Diocese

We hereby inform our entire clergy of this territory, that His Holiness Patriarch Mr. Vikentije, in his act No. 57 dated April 4 of this year advised:

That Abbot Antonije Abramovich, performing duties of administrator of Lavre the Holy Pec Patriarchate willfully left the monastery, deceived his higher church authorities by stating he needed an immediate vacation, and left for permanent residence in America with which he committed a wrong in accordance with Art. 214, No. 3, Constitution of the Serbian Orthodox Church and 4th By-Law of the IV Ecumenical Council. For this reason His Holiness Patriarch Mr. Vikentije under the above number and date *PLACED ABBOT ANTONIJE ABRAMOVICH UNDER SUSPENSION OF PRIESTLY PERFORMANCES AND REFERRED HIM FOR TRIAL TO THE CHURCH COURT.*

His Holiness Patriarch Mr. Vikentije prays that all our clergy be advised of this decision as well as all the Orthodox churches in America and Canada.

Informing you of the above decision of His Holiness Patriarch *WE ORDER,* that Abbot Antonije Abramovich not be accepted in any parish by the clergy, nor should he be permitted to perform any church service in this diocese.

By separate letter we have informed all other sister Orthodox Churches in America regarding this decision of His Holiness the Patriarch of the Serbian Orthodox Church as well as the Abbot Antonije himself.

With blessings
SERBIAN ORTHODOX
AMERICAN-CANADIAN
+ Bishop Dionisije (L.S.)

(translator's certification omitted)

PLAINTIFF'S EXHIBIT 229
RESOLUTION
FOR THE AMENDMENT OF AND
AMENDMENTS
TO THE CONSTITUTION OF THE
SERBIAN ORTHODOX DIOCESE IN THE
UNITED STATES OF AMERICA AND CANADA
A RELIGIOUS CORPORATION
ORGANIZED AND EXISTING UNDER
THE LAWS OF THE STATE OF ILLINOIS

WHEREAS, Article 36, Paragraph 10 of the Constitution of the Serbian Orthodox Diocese in the United States of North America and Canada, a Religious Corporation, organized and existing under the laws of the State of Illinois, charges the Diocesan Council as follows:

"10) to submit recommendations, according to the need, to the Diocesan Assembly for the change and amendment of this Constitution," and

WHEREAS, the Diocesan Council has submitted such recommendations pursuant to such Constitutional duty; and

WHEREAS, the Serbian Orthodox Diocese in the United States of North America and Canada has been organized, supported, and maintained by the faithful members of the Serbian Orthodox Church, who are citizens or residents of the United States of America and of the Dominion of Canada; and

WHEREAS, in order to assure the canonical continuity and the Apostolic succession of the Serbian Orthodox Church, the Serbian Orthodox Diocese in the United States of North America and Canada beginning in the year 1927 and continuing through 1939, requested to become a component part of the Serbian Partriarchate in the Kingdom

of Yugoslavia and at the same time reserved to herself the right to administer and to conduct her own affairs autonomously through the Diocesan Church-National Assembly and under its own Constitution, and;

WHEREAS, the Constitution of the Serbian Orthodox Diocese in the United States of North America and Canada was adopted and accepted at the Diocesan Church-National Assembly in 1927 and amended and revised at the Diocesan Church-National Assemblies of 1931 and 1938 and was approved by the Holy Bishop's Synod of the Serbian Orthodox Church in 1928 and 1939, and;

WHEREAS, following the installation in Yugoslavia of a Communist dictatorial, anti-christian and anti-democratic government, the Serbian Orthodox Church, the Holy Bishop's Synod, the Patriarchs, and the Administrators of the Holy Mother Church are no longer free to preach the word of God without government supervision or to propagate the true teachings of the Holy Mother Church and Serbian Orthodoxy and have undertaken in addition with complete disregard of our free, independent, autonomous rights as the North American Diocese of the Holy Mother Church and our Constitution and the laws of the United States of American and of the State of Illinois to obstruct the affairs of the Serbian Orthodox Diocese in the United States of North America and Canada in that:

(A) Without representation they purport to have divided the Serbian Orthodox Diocese in the United States of North America and Canada into three dioceses, and;

(B) To suspend and relieve our Holy Bishop from his priestly function and pastoral duties, and;

(C) Have purported to do so without notice, hearing or representation in controvention of Canon Law, the Constitution of the Mother Church and the Customs and usages handed down through the centuries, and;

WHEREAS, the Holy Mother Church and the Holy Synod of Bishops and the Patriarch of Belgrade are complete enslaved by the Communistic rulers of Yugoslavia who have overthrown the Kingdom of Yugoslavia and its duly constituted authority, and;

WHEREAS, said Communist usurpers, through the captivity and enslavement of the Holy Mother Church, propagate among our faithful peoples here ideas which are contrary to the free-life conceptions and beliefs held and respected by the Serbian-American and Serbian-Canadian children of the Holy Mother Church, and;

WHEREAS, such propaganda does not reflect the Serbian Orthodoxy of the Holy Mother Church, and;

WHEREAS, it is the duty of the faithful in America and Canada to preserve, defend and sustain among the people, one, holy, ecumenical, and apostolic Church and repel all activities contrary to Serbian Orthodoxy, and;

WHEREAS, said Communist usurpers, in 1952, purported to subjugate and take over the administration of all faithful Serbs, children of the Holy Mother Church, throughout the free world outside of Yugoslavia, and;

WHEREAS, the faithful children of the Holy Mother Church throughout the free world have applied to the Serbian Orthodox Diocese in the United States of North America and Canada, through its bishop and the Diocesan Church-People's Assembly for sanctuary, leadership, and protection in the preservation throughout the free world of the Faith, the Holy Mother Church, and all Serbian Orthodox for the duration of the captivity and enslavement of the Holy Mother Church by the Communist dictators,

NOW, THEREFORE, BE IT RESOLVED that:

1. The Serbian Orthodox Diocese in the United States of North America and Canada be and the same is hereby reaffirmed to be completely autonomous in its administrative, temporal and canonical-hierarchial affairs and free from all rules, regulations, orders, decrees, or obstructions emenating from the captivity of the Patriarch of the Serbian Orthodox Church and the Holy Synod of Bishops.

2. That the Constitution of the Serbian Orthodox Diocese in the United States of North America and Canada be and the same is hereby amended in the following particulars:

(a) That Art. 1 shall be amended to read as follows:

Art. 1

"The Serbian Orthodox Diocese in the United States of North America and Canada is considered spiritually and liturgically as an organic part of the Serbian Orthodox Patriarchate of the Kingdom of Yugoslavia and enjoys all the benefits which originate therefrom."

(b) That Art. 2 shall be and hereby is repealed and that the Constitution shall be and hereby is amended by substituting the following:

Art. 2

"The present regulations and laws of the Federal Socialist Republic of Yugoslavia are not compulsory or binding upon the Serbian Orthodox Diocese in the United States of North America and Canada and such diocese will be governed by the laws of the State of Illinois and of the United States of America and of the Dominion of Canada so far as such laws may have application or relevance."

(c) That Art. 3 be and the same hereby is amended by adding the following sentence to said article, to-wit:

"The said jurisdiction shall be extended to include every part of the free world except Yugoslavia wherever Serbian people are living and have formed parishes or dioceses in Serbian Orthodoxy and seek sanctuary and affiliation for the purpose of preserving, the following:

Art. 9

"The Bishop of the Serbian Orthodox Diocese in the United States of North America and Canada shall be nominated by the Diocese Council and the Diocesan Ecclesiastical Court, elected by secret vote of the Diocesan Church-National Assembly, and ordained by the Orthodox canonical Bishops having apostic succession.

"Candidates for Bishops must fulfill canonical-legal requirements provided for the position of Bishop in the Orthodox Church. They must have the required theological education: Theological Academy, Theological Faculty or university education with prior theological education. They must show by their diligent church work, faithfulness to the church and the people and by their examplary life as well as by their ability to merit the position of Bishop.

In case of vacancy or widowhood of the Diocese, the Diocesan Council shall convoke within six months at the most a Church-National Assembly in extraordinary session. The Diocesan Council shall within three weeks before the Assembly propose to the Church-National Assembly two or three candidates for Bishop who fulfill the necessary requirements as set forth in the previous subsection of this article.

The Diocesan Church-National Assembly will elect in secret vote one of the proposed candidates by a two-third majority. If this majority is not attained in the first two ballots then a third ballot shall take place. If at that time a candidate receives an absolute majority, he shall be considered elected. In case that no candidate receives an

absolute majority in the third ballot, a fourth ballot shall take place under the same condition. If no candidate receives an absolute majority on the fourth ballot, then a fifth ballot shall take place with only two candidates who have received the greatest number of votes. At this balloting, the candidate who receives the most votes shall be considered elected.

The tenth Diocesan Church-National Assembly may if necessary elect one or two Bishops in its session of November 12 to 14, 1963, dwith a two third vote of the attending delegates, waiving exceptionally the educational requirements and the balloting order prescribed in the above paragraph.

That Sub-paragraphs (h), (l), (o), and (p) of Art. 10 shall be and each of the same hereby are repealed and deleted and that the Constitution shall be, and each of the said sub-paragraphs hereby are, amended by substituting the following sub-paragraphs:

"h) To obey and execute all cananical laws of the one, holy, ecumenical and apostolic Church."

"l) To decide questions of degrees in relationships and, within the canonical limitations, to render dispensations to related persons to wed; and to grant dispensations from announcements in instances of proven necessity."

"o) To inform the clergy and laity of various decisions and directives of the Diocesan Church-National Assembly."

"p) To submit to the Diocesan Plenum his yearly, and to the Diocesan Church-National Assembly a three-year report of his archipastoral activities; and"

(h) That Art. 12 shall be and hereby is repealed and that the Constitution shall be and hereby is amended by substituting the following:

Art. 12

"The Diocesan Bishop in the United States of America and Canada is obliged to recognize the spiritual and liturgical unity of the Serbian Orthodox Diocese for the United States and Canada with the Mother Church.

The Diocesan Plenum is hereby authorized to regulate and specify the right, duties and responsibilities of the respective Bishops of this Diocese.

The Diocesan Bishop, as well as the other Bishops, is responsible to the Diocesan Plenum for their work and the governing of the affairs of the Diocese and its institutions. In case of disagreement between the Diocesan Plenum and the Bishops, the final decision remains with the Diocesan Church-National Assembly.

(i) That Art. 13 shall be and hereby is repealed and that the constitution shall be and hereby is amended by substituting the following:

Art. 13

"In the event of illness or absence or incapabiilty of the

When the seat of the Diocesan Bishop is vacated, the administration of the widowed Diocese will be carried out by the highest ranking Bishop until the convocation of the Diocesan Church-National Assembly.

If at the time of vacancy of the seat of the Diocesan Bishop or widowhood of the Diocese there is no other Bishop the Diocese will be administered jointly by the Diocesan Ecclesiastical Court and the Diocesan Council until the election of a new Bishop as prescribed in Art. 9 of this Constitution."

(j) That Art. 15 shall be and hereby is amended by adding the following words:

"and throughout the free world, as provided in Art. 4 of this Constitution."

(k) That Sub-paragraphs (1), (3) and (4) of Art. 16 shall be and hereby are repealed and that the Constitution shall be, and said Sub-paragraphs hereby are, amended by substituting the following:

"1) Delegates elected by the individual Church-School Community to-wit, two laymen, in addition to the president of the same, who is delegate ex officio. In case of his inability to attend, he shall be replaced by its vice-president;"

"3) All Bishops;"

"4) All members of the Diocesan Plenum;"

(l) That sub-paragraph (8) of Art. 23 shall be and hereby is repealed and that the Constitution shall be, and the said sub-paragraph hereby is, amended by substituting the following:

"8) decides on changes and amendments to the Constitution."

(m) That Art. 53 shall be and hereby is repealed and that the Constitution shall be and hereby is amended by substituting the following:

Art. 53

"Decisions made by the Diocesan Bishop alone or together with the Diocesan Ecclesiastical Court, have the validity and power of decrees of Ecclesiastical Courts in the first instance.

"The Diocesan Ecclesiastical Court decides matters of divorce in the first and final instance, except in the cases of marriage annulments or on appeals of a decision of the Diocesan Ecclesiastical court in which case a joint meeting of the Diocesan Council and Diocesan Ecclesiastical Court is the final instance.

"This provision will remain in effect until the Eleventh Church-National Assembly, which shall enact provisions concerning the establishment and organization of the higher Ecclesiastic Court."

(n) That Art. 54 shall be and hereby is repealed and that the Constitution shall be and hereby is amended by substituting the following:

Art. 54

"All decisions pertaining to the unfrocking of priests or presbyter-monastics arising not only by reason of complaint but also by reason of official duty shall be made by the Brotherhood of Clergymen of this Diocese under the presidency of the Diocesan Bishop, Members of the Diocesan Ecclesiastic Court are excluded therefrom.

"The provisions of Art. 53, Section 3, of this Constitution are hereby incorporated by reference."

(o) That Art. 56 shall be and hereby is repealed and that the Constitution shall be and hereby is amended by substituting the following:

Art. 56

"Court procedures and order of business of the Ecclesiastical Court will be prepared by the Ecclesiastical Court and the Diocesan Council, and submitted for approval to the Diocesan Church-National Assembly. Until then, the Ecclesiastical Court shall use the court procedures presently in effect.

If the Bishop should disagree with the decision of the Diocesan Ecclesiastical Court, as well as with the decision of some Diocesan committee or Diocesan Council, the matter in question will be sent to the Diocesan Plenum, which should by Convoked, into session within thirty days preiod of the property filed complaint by the Diocesan Bishop himself or the vice-president of the Diocesan Council."

(p) That Art. 67 shall be and hereby is amended by adding the following words:

"or of the country in the free world, outside of Yugoslavia, in which such community of Serbs is located."

(q) That from the first sentence of Art. 86 shall be and is hereby deleted the word "administration".

(r) That Art. 108 shall be and hereby is amended by adding the following words:

"to which the said parish is subject."

(s) That Art. 122 shall be and hereby is amended by adding the following words:

"The decision of the same is final."

(t) That, after Art. 163 shall be and it is hereby added the following new article:

"Transitional Provisions

Art. 164

"All the amendments and changes to this Constitution, adopted at the Tenth Church-National Assembly, held on November 12, 13, and 14, 1963, become immediately effective and binding for all Diocesan authorities and churches and school communities which compose the same."

Dated: Libertyville, Ill., November 14, 1963.

This Resolution was unanimously adopted at a joint session of the Committee for Amendments to the Constitution and Committee for Resolutions and Greetings, held on November 14, 1963.

Committee for Amendments to the Constitution:

Members:
Nick Stepanovich
Nick Stepanovich
Very Rev. I. Kovacevich
Very Rev. Arch. I. Kovacevich
Dr. Milorad Draskovich
Dr. Milorad Draskovich
Members:
Nick Stepanovich
Nick Stepanovich
Sofija Ducich
Sofija Ducich
Jovan Kontich
Jovan Kontich

Dr. Caslav Nikitovich
Dr. Caslav Nikitovich
Dr. Ranko M. Brashich
Dr. Ranko M. Brashich
George Vujnovich
George Vujnovich
Dr. Ranko M. Brashich
Dr. Ranko M. Brashich
Chairman
Dr. Uros Seferovich
Dr. Uros Seferovich
V. Rev. U. Jelich
Very Rev. Ugljesa Jelich
Milos Bajcetich
Milos Bajcetich
Robert Sagather
Robert Sagather

This is to certify that the above Resolution was unanimously adopted by the Tenth Diocesan Church-National Assembly of the Serbian Orthodox Diocese for the United States of America and Canada at its session, held on 14th day of November, in year Nineteen Hundred Sixty Three of our Lord

Presidency

of the

Tenth Diocesan Church-National

Assembly

Dragisa Milich
Dragisa Milich
Secretary
Janko Kovacevich
Janko Kovacevich
Secretary

Right Rev. Bishop Dionisije
Right Rev. Bishop Dionisije
Chairman
Very Rev. S. Radovanovich
Very Rev. S. Radovanovich
Vice-Chairman
David Bundalo
David Bundalo,
Vice-Chairman
Danilo Prodanovich
Danilo Prodanovich
Ass't. Vice-Chairman

(SEAL)

DEFENDANTS' EXHIBITS

DEFENDANT'S EXHIBIT 29

In the Name of
Peter II
by the Grace of our God and the will of the people
King of Yugoslavia
The Royal Deputies

Upon the recommendation of the Minister of Justice, being in agreement with the President of the Council of the Ministry, and Based on Par. 8 of the Law of the Serbian Orthodox Church and Par. 99 of the By-Laws of the Serbian Orthodox Church

C O N F I R M

The electiion of:

His Grace Bishop of America and Canada Right Reverend Damaskin as Bishop of the Orthodox Diocese of Banat, at Vrshats;

His Grace Bishop of Marcha, Vicar to His Holiness the Serbian Patriarch and supreme secretary of the Bishops' Holy Synod Vikentije as Bishop of the Orthodox Diocese of Zletovo-Struma in Stip;

His Grace Bishop of Morava and Vicar to His Holiness the Serbian Patriarch Lord DIONISIJE as Bishop of the Diocese of America and Canada; and

His Grace the Bishop of Buda and Vicar to His Holiness the Serbian Patriarch Rt. Rev. NICHOLAS as Bishop of the Orthodox Diocese of Zahum-Hercegovina.

The Minister of Justice is to execute this Ukase.—

P A U L (signed)
R. Stankovich (signed)
Dr. Perovich (signed)

No. 4978
18 January 1940 year
Belgrade.
Minister of Justice,
Dr. L. Markovich (signed)

That this is a true copy of the original, AFFIRMS:

By order of the Minister of Justice
/M.J./ Inspector,
Bran. Sl. Popovich (signed)

That this is a true copy of the copy of the original, AFFIRMS:

For the supreme secretary of the
Bishops' Holy Synod
Dean-Referent,
(signed) Vaso Shipka

S E A L
Bishops' Holy Synod
Serbian Orthodox Church

DEFENDANT'S EXHIBIT 29C

Transcrpition

IN THE NAME OF HIS MAJESTY

PETER II

by Grace of God od peopele's wishes

KING OF YUGOSLAVIA

THE ROYAL DEPUTIES

On recommendation of the secretary of Justice, put in conformity with the president of Minister's Council, and on the basis of art. 8 of Law for the Serbian Orthodox Church as well as of article 99 of the Constitution of the Serbian Orthodox Church are

A P P O I N T I N G

as Vicar of His Holiness Serbian Patriarch the newly ordained Bishop DIONOSIJE (MILIVOJEVICH) with a title of Bishop of Moravice.

Let the Secretary of Justice perform this EDICT august 21st 1938

PAUL(signed
R.Stankovich(signed)
Dr.I.Perovich(signed)

Secretary of Justice
M.Simonovich(signed)

That this transcript is a true copy of its original is assertin and confirming

Seal

By the order of secretary of Justice
Inspector
Bran.Sl.Popovich(signed)

That this transcription from a transcription is true with its original

Confirms
In the name og General Secretary of
Seal The Holy Bishop's Synod
referent• Rev. Vaso Shipka
(signed)

That this transcript is a true copy of the transcription and is true with its original —confirms

The chief of the office of
A.E.Metropolia of Belgrade-Karlovci
Mich. Nedeljkovich (signed)

DEFENDANT'S EXHIBIT 30

FIRST CONVENTION
of the
SERBIAN ORTHODOX PRIESTS AND PEOPLE
IN AMERICA
1913
—MINUTES—

On the day of 24th of Oct. (Nov. 5th) 1913, the representatives of various Serbian Church Congregations, with their Priests for the organizing of the Serbian Orthodox Church in North America.

Attending are these Priests:
Archmandrite Sebastijan Dobovich
Archmandrite Joanikije Markovich
V. Rev. Nestor Vukichevich
Rev. Filip Sredanovich
Rev. John Krajnovich
Rev. George Popovich
Rev. Pavle Veljkov
Attending laymen representatives are:
Ivan Vuchetich, Chicago, Ill.

Sava Takshich, Chicago, Ill.

Trifun Tepshich, Steelton, Pa.

Trifun Lazich—representing the Serbian Orthodox Federation Srbobran.

Nikola Grahovac, representing, The Serbian Federation Sloga.

Petar Vujaklija, Johnstown, Pa.

Janko Vukobratovich, Johnstown, Pa.

Luka Uzelac, Kansas City, Kansas

John Stepanovich, Kansas City, Kansas

Nikola Tizich, So. Bend, Ind.

Steve Beslich, So. Bend, Ind.

The Church Congregations, not attending wrote and declared, that they will agree with the decision of the majority: They are; Butte, Montana, Yongwood, Pa., Cincinnati, O., and Cleveland, O; Akron, Ol. Tonopah, Nev. —representative—Arch. Dabovich, Jackson, Calif.

There were not any notes from the Congregations as follows: Pittsburgh, Pa.; Mekeesport, Pa.; Wilmerding, Pa.; Mingo Junction, O.; Chisholm, Minn. (5)

From Indiana Harbor, representatives were present, but later left.

These church congregations didn't declare either for, or against, because they believed it wouldn't succeed, and because they might lack the material means. It is believed that they will join the majority and its decisions as conscious, and sincere patriotic Serbs.

When the delegates came to the hall, the greeting speaches began. The first was Fr. Sava Vojvodich. (He was then priest in Chicago.) He spoke of the writen invitation to the delegates, which explained the need of convening for this church organization. In his lengthy speech, he made a good impression on all attending, who greeted him by acclamation.

After that Very Rev. Archmandrite Sebastian Dabovich spoke. He spoke in a large way, of how he visited Europe and especially the Kingdom of Serbia, and about his speaking with eminent persons in this country, as: Dr. Paul Radosavljevich, Nikola Tesla, Mihailo Pupin and with Episcopalien Bishops, who are willing to help. Our leading Serbs were very glad that the Serbian Church problem may be solved. All greeted him warmly.

The speakers following, were: Rev. Filip Sredanovich, Rev. John Krajnovich, and Rev. Nestor Vukichevich. He said that some ill minded men and priests started to organize churches without foundation, and for that reason it is a false foundation and disorder in every respect.

T. Lazich addressed the gathering, wishing much success.

Rev. George Popovich greeting the gathering, with the wish that our church problem should be better solved, because every priest who may come here, must be disappointed with the circumstances.

T. Tepshich gave his greetings, freely expressing himself.

After that, Mr. Ivan Vuchetich expressed his best wishes, as did Rev. P. Veljkov, Archmandrit Joanikije Markovich, who is against those who are criticising his past work and life.

After all the speeches have been delivered, the Committee for the Verifying of Credentials was elected. In this Committee were: Rev. John Krajnovich, Rev. F. Sredanovich, Mr. Sava Jakshich and Mr. Nick Grahovac.

The attending priests and delegates submitted their credentials for verification.

After the verification by the committee, they declare which delegates have valid credentials.

V. Rev. Archmandrite Markovich declared that he could not recognize the validity of the documents, since they are written mostly in the Greek language.

Rev. Filip Sredanovich, a member of the Committee, submitted a report of the Committee and declared that the credentials of all priests and delegates are valid and they have the right to attend this conference, except Archmandrite Joanikije, who has no document of what and where he was for nine years, from 1897 until 1907.

Archmandrite (Joanikije) Markovich protested, saying —that is nobody's business where he was, but that he is in the priesthood for fifty years.

The attending representatives are in disagreement with his discourteous defense. It was said, that every priest in good order has to have documents where, when and how long he has served as priest. Let him not be angry, but to quickly get these documents and then have equal rights with the other priests.

A disorder began among the delegates which came with him. Finally, they left.

After the V. Rev. Markovich and his group left, the President of the Conference was elected. Rev. Filip is recommending as the person who is the host of the colony and as such is suggested for that duty, Rev. Savo Vojvodich. Since there wasn't anybody against, he was unanimousley elected. The vice-president was to be elected from the laymen. The candidates were as follows: Lazich, Grahovac, Vucetich, Tepshich, Uzelac. All of them did not accept, but Trivum Teshich was elected, and accepted the election.

Rev. Nestor Vukichevich and Luis Uzelac were elected as Secretaries.

The president then opened the conference with a prayer: "King of Heavan". After the singing of the prayer,

the president opened the conference with the first item on the agenda: *"Whether we are willing to organize all our Church Congregations in one, as our Church body?*

Mr. T. Lazich said that we shouldn't spend to much time on this subject because everybody is of the same opinion and that is the purpose of this conference.

Other speakers were of the same thought: Rev. John Krajnovich, Filip Srehanovich, Archmandrite Dabovich, Ivan Vuchetich, Sava Takshich and Rev. Vukichevich. *All of them expressed a sincere wish to have the protection of the King's Serbian Metropolitan of Belgrade—Serbia.*

Rev. John Krajnovich wants a constancy of how many of those present in the delegation are for that opinion.

Rev. Sredanovich reads the report from Church Congregations who are in favor of it. Archmandrite Dabovich said that two new Serbian colonies—Philadelphia, Pa. and Baltimore, Md. will join those decisions.

Rev. Paul Veljkov asked whether we have two-thirds of the Church Congregations already declaring themselves for the organization of a new church.

Rev. John Krajnovich said, yes it would be better if the majority of Church Congregations are present, but in the event that we do not have two-thirds, if we agree, then all others will subordinate our decisions without any regards from the opposite side.

Vuchetich is for that: *what this first convention decides* by majority vote, the minority must submit to the decision.

Lazich said: it would be necessary to find a way and means so that all Church Congregations be constituted and must enlist in this organization and have the same by-laws.

Tepshich declared his agreement with the previous speaker.

2nd

The present practice, that our priests are under the Russion jurisdiction is not corresponding to us, since the Russian Church has been burdened with its own worries, and ours are neglected. For that reason, there appeared disorder among us, therefore we did not have any progress and could do nothing.

Let us ask The Serbian Orthodox Church in the Kingdom of Serbia to receive us under its jurisdiction!

Rev. Filip Sredanovich said: We are all under the Russion jurisdiction, but we do not have any official documents of that. The Russian jurisdiction didn't help our churches enither morally and less materially. The Russian Church has too large a territory, and she hasn't time for our problems. We have to express a gratitude to her for care which they extended to us, but for the future, we have to be together with the Metropolitan of Serbia.

Vuchetich said: none of our churches was under Russian rules.

Vukichevich delared: Many are of the false opinion about that matter, because the majority of our priests hae the Holy Antiminces from the Russian Archbishop and we are forced to be under his supervision. Without the Holy Antiminces, the Holy liturgy could not be served. Then too, we are getting The Holy Oil from them for Chrismation. When we get all of this from our Serbian Church from Serbia, then we may be independent from the Russian Archdiocese here in America. With all my heart and soul, I am willing to come under the jurisdiction of the Serbian Church in the Kingdom of Serbia.

Archmandrite Sebastian spoke also about the spiritual control of the Russian Church, and that they didn't care about our needs. Moreover, she took in her possession

some of our Churches and properties. It is unavoidable and a necessity that we come under spiritual guidance of the Serbian Orthodox Autocephalous Church.

He mentioned some Churches which the Serbs are maintaining but the Russians enlisted them as Russian. The fact that the Serbian Church didn't look for us as yet, the reason is—she is awaiting our move and then she will meet us and fulfill our desires. For that reason we are pleading to her protection, and to be our Protectress.

Jakshich spoke of the fact that we are depending on the Russians. We have to work with all vigor to be received by the Metropolitan of the Kingdom of Serbia.

Vucetich also spoke very emphatically to start to work in that direction as soon as possible.

Father John: This is a Cultural question, about the Church jurisdiction, since the basic teaching of our Church is—that a Church could not be without a Bishop.

The material aspect is heavier because their Church is under the control of the politically powerful, Secretary of Education. But since all of us see how the situation of our church congregations is, in regards to our Church property. Let us take for example: If in some place, our people are resettled and only a few persons remained. They might take the property and be the owners of it. A lot of the Church property will be lost in that way. He is mentioning cases in court, and is against that. Priests could not be under anybody's jurisdiction. In that case, selfishness may appear, and some selfordained priest may appear.

His wish is that the Metropolitan of Serbia confirm our by-laws and regulations which we may prepare, that he then officially recognize them and then that they be valid. For that reason, let us work on our Constitutiion, since the circumstances and questions here, are much better known to us than to them.

Vujaklia and Jaksich spoke about the same matter. They expressed the opinion as all the others did, to come under the jurisdiction of the Metropolitan of Serbia.

After the speeches are completed, that proposal is put to a vote.

Unanimously, all voted for the protection of the Jurisdiction of the Archbishop and Metropolitan Lord Dimitrije in the Kingdom of Serbia.

There was a five minutes rest.

Sesstion has been continued with the president making a motion for the election of six (6) persons—three (3) priests and three (3) laymen—to draw up the Constitution and by-laws. Those elected were:

Rev. John Krajnovich
Rev. Nestor Vukicevich
Rev. Filip Sredanovich
Mr. Sava Takshich
Mr. Trivun Tepshich
Mr. Janko Vukobratovich
Archmandrite Sebastijan Dabovich and
Mr. Petar Vujaklija are also named
This committee started with its work.

The 6th of November at 10 A.M., the convention was opened with a prayer. All delegates are present, and the president declares the meeting is in progress.

Fr. Filip said—that the Secretary was occupied in the work of the by-laws and didn't rewrite the minutes.

President: Time was short for the work to be done on the Constitution, but there was enough done to allow one member of the Committee make a report on it.

Speakers were, Rev. John Krajnovich and Rev. Vukichevcih.

GENERAL REGULATION

I

Art. 1

The Serbian Orthodox Church in the United States of America is governed by a main central board, and is elected at its Convention (Sabor), every three years. . . .

ACCEPTED

Art. 2

The Central Board is divided into three sections—Spiritual, Administrative—Education. The spiritual section consists of the president, three district Archpriests and three persons from Monkhood. . . .

Art. 3

The organization of the Serbian Orthodox Church in the U.S.A. & Canada is based on:

a. Holy Gospel and Bible (New and Old Testament);
b. The Canons of The Holy Apostles;
c. Seven Eccumenical Councils and (9) nine local Councils recognized by the Eastern Orthodox Church;
d. Rules of The Holy Father of Church, mentioned in II Canon of VI Eccumenical Council;
e. Korinchaya—

ACCEPTED

Art. 4

The Serbian Orthodox Church in the U.S.A. is divided into three districts: Eastern, Mid-Western and Western.

ACCEPTED

The rest of the articles were read by Rev. Sava Vojvodich:

The Serbian Orthodox Church in the U.S.A. comprises all of the Church Congregations, eventually adding monasteries, if any, with a Bishop of his representative as head.

She has its own Church National representation and Church National Governing body—in things of Church, Schools, Education, and property autonomously.

ACCEPTED

Name is: SERBIAN ORTHODOX CHURCH IN THE UNITED STATES OF AMERICA. . . .

ACCEPTED

The main representative body is the *convention* and central main committee with three mentioned sections. . . .

ACCEPTED

Other articles are written on an extra sheet of paper.

II

MAIN CONVENTION—ASSEMBLY

See addition which will be included afterward and the original will be saved for comparison—then it will be sealed and left for archive. These sheets should be sewed into this book and they are authentical for this minutes. They are marked by numbers 1-44 pages with pencil.

From page 17-38, these pages are not in the minutes (Evidently, that was not added later).

Page 38.

The president recommend that a name for our Schools should be fixed.

Fr. Krajnovich, Lazich, Veljkov & Vukichevich participated in this debate, which recommends the name: SERBIAN ORTHODOX SCHOOLS.

Nick Krahovac is against that name. Instead of the word "Orthodox", he wanted it to be "National".,

Tepshich is against that and supports the motion of Rev. Nestor.

The president gives an explanation of both words and asks them to be called: SERBIAN ORTHODOX NATIONAL SCHOOLS. He put that motion to a vote. The

voting was counted and unanimously accepted, the name to be: SERBIAN ORTHODOX NATIONAL SCHOOLS. . . .

ACCEPTED

It was decided—that these read Constitution is immediately in force after the acceptance by the Highest Spiritual Church Authorities in the Kingdom of Serbia—

The president put a question about a periodical on the floor— The spiritual paper in the U.S.A. Debate about that question is started.

Krajnovich, Jakshich, Sredanovich and Vurckovich spoke about the need of this periodical. In length Fr. Krajnovich spoke about this theme. All are in accord of the necessity of such a periodical.

Rev. Nestor recommends that the name of this periodical be "Herald of the Serbian Orthodox Church in the U.S.A.: All attending are agreed.

ACCEPTED

The president recommends that a letter from Prof. Mihailo Pupin be read, president of the Federation of the United Serbs—Sloga.

Secretar Fr. Vukichevich read this letter, sent to Rev. S. Vojvodich. In this letter, he mentioned that about $160,000.00 is collected.

ACCEPTED

The president presented two questions:

a) Whether the delegates are willing to take in discussion a resolution which has to be sent to His Grace Archbishop of Belgrade and Metropolitan of Serbia.

b) To elect a future Main Central Committee.

It was decided that the first should be the Main Central Committee which will be elected and take care of the resolution.

The president calls for a few minutes rest.

After 10 minutes, the president takes his place and calls attention to the agenda which is: To elect the President of the Main Central Board.

Fr. Sredanovich—recommends Rev. Sava Vojvodich, priest of Chicago, Ill., who is caring for the gathering—he pleads that he be elected.

T. Lazich is in accord with this motion and supports it.

N. Grahovac—It should be without counter candidate—should be unanimous.

Rev. Sava Vojvodich was elected as president of the Central Main Board.

The president thanks the convention and delegates on their confidence and promises that he will do his best for th betterment of Church Congregations and he will perform consciously his duty.

The three district representatives were next chosen.

Lazich recommends Rev. John Krajnovich for the Eastern district.

Rev. N. Vukichevich, opposes his candidacy, not against the person, but he has in mind that in the Eastern District, there are older priests and with higher reputation and education.

Finally, except for Rev. Krajnovich there are priests from monkhood and they are with Seminaries and other recognized Spiritual Schools. He recommends Rev. Alexije Savich of Pittsburgh, Pa.

Rev. Krajnovich said: he does not know if wherer Rev. A. Savich has any legal documents as priest. He didn't see them. He accepts the candidacy.

In this debate, participating are: Mr. Lazich, S. Jakshich and others of laymen as well as Rev. Sredanovich which supported the candidacy of Krajnovich.

Rev. Nestor protested saying: If we desire peace and brotherly love, it should be done what is right, otherwise we will be without hope of success. Regarding the documents of Rev. Savich, he thinks that Rev. Krajnovich is not an authority of investigation and certification. And since such an injustice is done, he pulls out—he would be under the Metropolitan of Serbia, what is his biggest desire, and he came from over there.

The majority elects Rev. Ivan Krajnovich.

For the Middle-West, Rev. Filip Sredanovich was elected.

For the Western, Archmandrite Sebastian Dabovich was elected.

On the agenda is the election of members for Spiritual needs—for the Ecclesiasticall Court. Candidates are: Vukicevich George Popovich and Dushan Pogich—

ELECTED

Rev. Nestor declares that he is thankful on the confidence but he is sorry, that he could not accept it as he said before. Delegates are of the opinion that he must accept it and they can't approve his resignation.

The following were unanimously elected as members of the Executive Committee of four laymen.

President: Ivan Vuchetich.

Members: Vukobratovich, Jakshich and Uzelac as well as two priests, Vukichevich and Krajnovich.

Next on the agenda was the election of the Main Ecclesiastical Committee. They were recommended and elected. Mihailo Pupin, Prof. Elesin, Smiljanich and P. Vujaklija. From the priests were elected Sredanovich and Veljkov.

The overseeror of all Schools by Acclamation, Dr. Paja (Paul) Radosoljevich, prof of the University of New York, N.Y. was elected.

The president said that the editor of the Herald should be elected.

T. Lazich recommends Rev. John Krajnovich—Elected by majority.

The Seat of the Main Central Board should be established and after a lengthy debate, Chicago, Ill. was chosen to be the seat.

Then the question arose, when and where should the *Second Convention* be held.

Several places were recommended: Johnstow, Pa., McKeesport, Pa., Pittsburgh, Pa., and after a very noisy debate it was decided to vote.

Johnstown, Pa. = 6

Pittsburgh, Pa. = 4

Chicago, Ill. = 4

According to the results of the voting, it was decided that the future convention should be held in Johnstown, Pa., in 1916 in the month of May.

The question arose: who will compose and sign the resolution, which should be sent to his Grace Archbishop and Metropolitan Dimitrije in Belgrade?

On the proposal of S. Jakshich, a committee was elected of 6 persons as: Rev. Vojvodich, Rev. Krajnovich, Archmandrited Dobovich, Vukichevich and Sredanovich and vice-president Ivan Vuchetich.

They were elected

The meeting of the day is closed and ordered to convene at 9 A.M. tomorrow.

November the 7th, 1913. the meeting is opened by prayer. All delegates are present except Mr. Nick Grahovac.

The president presented a motion that before the minutes may be read, a few articles from the Constitution which were not read yesterday, should now be read.

This acknowledged, the reading began which was prepared by Vojvodich and which was read by Rev. Sava Vojvodich who wrote it on separate sheets, and which are added in here (Remarks—they are lost!)

At the time that they are read, the Rules of the Administrative—Executive Committee are also accepted which a amall change.

Mr. Vuchetich presented a motion that to King Petar 1, of Serbia, should be sent a greeting.

All accepted this motion.

The following are read: greeting from Mr. Voja Jovanovich from Cleveland, O., from Tonopali Nevada, who's representative is V. Rev. Dabovich, then a letter from Butte, Mont. in which gratitude is expressed.

A telegraphic greeting to His Majesty King Petar I of Serbia was composed as:

King Petar—Beograd—Serbia—

Representatives of the Serbian Orthodox Church at their assembly—Sabor—in Chicago, accepting the jurisdiction of the Serbian Orthodox Church of Great Serbia, by this are declaring unanimous faithfulness to your Majesty.

Rev. Sava Vojvodich
1905 Fowler St.
Chicago, Ill. U.S.A.

ACCEPTED

After this, the minues were read. Some members made remarks on account of their speeches. After that, the minutes were concluded and signed by all attending, personally on the day of November 7th, 1913, in Chicago, Ill.

Rev. Sava Vojvodich — President

Rev. Nestor Vukichevich — Finan. Secretary

Rev. John Krajnovich, with the remark that he is not satisfied with the stylization of the bigger part of these minutes.

Rev. F. Sredanovich, with the same remark.

V. Rev. Sebastijan Dobovich, enjoining with this first beginning of a great work, even though the first beginning has its lapse.

Rev. George Popovich, it should be better.
Rev. Paul Veljkov, without remarks.
Rev. Savo Jakshich, without remarks.
Rev. T. Lazich, without remarks.
Rev. L. Uzelac, without remarks.
Rev. Janko Vukobratovich, with remarks that pages 18-38 should be inserted.
Rev. Petar Vujaklija.
Rev. Ivan Vuchetich, Satisfied with all work
Rev. Nikola Terzich.
Rev. Steve Beslach
Rev. Trivum Tepshich, accepted with remarks that the Church congregation of Steelton should be notified.

Thanks to all brothers as laymen on their remarks. I am very sorry who they didn't do it themselves. But, I am not against the expressed sympathy, and for that reason I am not accepting the election—

Rev. Nestor Vukichevich

DEFENDANT'S EXHIBIT 31

I

MINUTES

of the

North American Serbian Orthodox Priests Assembly, held in Chicago, October 5, 1916 (by old calendar).

At 9 o'clock in the morning, and after the Invocation of the Holy Spirit in the Serbian Orthodox Church of Holy Resurrection of Christ, in Chicago, the following persons were present:

1. His Grace Sir EVDOKIM, Archbishop of Aleutia and North America;
2. V.Rev. Sebastian Dabovich, archimandrite

3. V.Rev. L. Turkevich, rassian priest from New York City
4. V.Rev. Sava Vojvodich
5. V.Rev. John Krajnovich
6. Rev. Philip Sredanovich
7. Rev. Dimitrije Mitrovich
8. Rev. George Popovich
9. Rev. Paul Veljkov
10. Rev. Marko Komnenich
11. Rev. George Milosavljevich
12. Rev. Dusan Trbuhovich
13. Rev. Rev. Matija Stijacich
14. Rev. Anto Jaksich
15. Rev. Petar Stijacich
16. Rev. Zarko Trifkovich

His Grace, Archbishop Evdokim opened the Assembly with a very impressive speech. Among other things, in his address, he mentioned the fact this Assembly is an historical event in the history of Serbian Church, in America. Also, he said that this is the first time a Russian Archbishop presides over a Serbian Priests Assembly. Then he went on and spoke about his friendship and love for Serbian people in the past. And, because of his friendly attitude toward Serbs, His Majesty King Petar the I, and His Grace Mitropolitan Dimitrije, awarded him with Medal of St. Sava, and asked him to take motherly care of Serbian people, in America.

At the end of speech, Bishop was enthusiastically greeted, with "long live!"

Then, the V.Rev. L. Turkevich, greeted the Assembly, in behalf of russian priests in America, wishing them a good success. He was greeted enthusiastically, with "long live!"

Then, the V.Rev. Vojnovich stood up and explained the purpose of this gathering, and that he is very glad that the Serbian church is under the jurisdiction of His Grace, who is full of love and goodness, recommending to all priests to show their appreciation, and that they should be united on all Assembly matters and purpose, and by this unity of thought invoke St. Sava's blessing upon themselves on the way back home.

Then, the V.Rev. Sebastion spoke, and said: that this is not the time for sentimental speeches. Moves to go ahead with the agenda.

Then, the V.Rev. John Krajnovich spoke, and said: that this is not the first priests gathering, they had them in the past. But, neither of these were successfull, because there was no any authoritative person to preside over them as they have now. He praised, then, all those priests who attended the Assembly gathering, but criticized those who did not find the time to come. Foresees good future for Serbian church and priesthood, in America, due to the fact that they have now their spiritual leader whom they did not have before.

In the very beginning of the opening of the Assembly several telegrams were received, addressed to His Grace the Archbishop, and those came from: Bisbee, Miami and Glob, Arizona, wishing a very successful gathering! Also, a telegram was received from Rev. Father Vuksich, Youngwood, Pa., excuzing himself for not being in position to attend the Assembly, and wishes a good success! Assembly greeted the senders of telegrams, with "long live!" Also, Rev. Mitrovich was acknowledged and greeted, for the three telegrams received from Arizona, which parishes were under his administrative jurisdiction. It was, also, agreed that many priests could not attend the Assembly, because

of their duty in the parishes. Like, for instance: Rev. Bogich from Wilmerding and Rev. Smiljanich from McKeesport, Pa., nevertheless, who are in agreement and in spirit with us at this Assembly.

The "Normal Constitution for the North American Orthodox Diocese" from 1909, was accepted with a few exceptions, and those are:

In paragraph 1, the words "Russian Church" were substituted with "Serbian Church", and at the end of the same the following words were added "at the request of parishioners, and with the agreement of the canons of Orthodox Church".

In paragraphs 12 and 13 the serbian form of the refered books will be printed.

In paragraph 17, at the certain place, the following words will be inserted "with the right to speak, but not to vote".

In paragraphs 19 and 20, at certain places the following words will be inserted: "parochial priest with the assistance of church president", "with priest".

Paragraph 22 will begin: "The president has the first right of the voice after the priest".

In paragraph 26 at the certain place will be inserted: "The priest will announce meetings in the church".

Paragraph 32 will begin: "The words" Church-staro-sta—" will be substituted with "tutor" or church-warden. Also, in other cases, in connection of translation of this Constitution the Serbian terminology will be used.

In paragraph 33 the open voting was accepted, while the words, allowing the secret voting will be dropped out. that the paragraph 41 should not be discussed at this lenghty discussion was opened. The Archbishop, at this moment, explains the holiness of Holy "Miro" and the Holy "Antimins", which is given to priests and churches by Bishop, only. He said, in order that these two Holy

Articles, mentioned above, could be given to a church—that the Bishop should be a member of that refered Church Trustee Board—which Board is comprised of a priest and several members of the Church Executive Board. This would be a kind of better guarantee, that church property and the Holy Articles in it, would never fall into the hands of selfish and even Godless people when those Holy Things would be exposed to blesphemy, which is a big sin in the eyes of Orthodox Christian teachings. The majority voted that the paragraph 41 should not be discuussed at this time, but rather should be brought up at next Assembly, and in the meantime, people should be notified about this and prepare themselves to discuss it intelligently, when time comes, in order to reach a positive solution to this matter.

It is decided that several paragraphs should be added to Constitution for Bishop's Aids, in which their duties should be described. For instance: Bishop's Aid is right hand of Bishop, himself; and he is a mediator between Bishop and people, the same way as an ordinary parochial priest is a mediator between Bishop's Aid and the people.

Serbian churches, in America, are divided into 4 presbyteries "proto-presviterijata":

1) Eastern—from Atlantic to Pittsburg, Pa.;
2) Middle—from Pittsburg to Chicago, Ill.;
3) First Western—from Chicago to Denver, Col.;
4) Second Western—from Denver to Pacific Ocean.

The Bishop's Aid for Eastern Presbytery was elected V. Rev. John Krajnovich. Under his jurisdiction are the following churches and priests:

1) Farrel, Pa.—Rev. I. Vukicevich
2) Hamilton, Canada—Rev. John Kukulevich
3) Johnstown, Pa.—V. Rev. John Krajnovich

4) Lebanon, Pa.—Rev. Milan Mrvichin
5) McKeesport, Pa.—Rev. John Smiljanich
6) Pittsburgh, Pa.—Rev. Al Savich
7) Steelton, Pa.—Rev. B. Popovich
8) Wilmerding, Pa.—Rev. Dusan Bogich
9) Woodlawn, Pa.—Rev. Dav. Popovich
10) Youngwood, Pa.—Rev. J. Vuksich

The Bishop's Aid to Middle Presbytery was elected Father Philip Sredanovich, with following churches and priests:

1) Barberton, O.—Rev. N. Stojakovich
2) Cincinnatti, O.—Vacant
3) Cleveland, O.—Vacant
4) Detroit, Mich.—Rev. Dusan Trbuhovich
5) Gary, Ind.—V. Rev. Ph. Sredanovich
6) Indiana Harbor, Ind.—Rev. Matija Stijacich
7) Mingo, Junction, O.—Rev. Dan. Bukorovich
8) South Bend, Ind.—Rev. Milan Jugovich

The Bishop's Aid to First Western Presbytery was elected Father Sava Vojvodich, with the parishes and priests:

1) Chicago, Ill.—V. Rev. Sava Vojvodich
   His Aid: Rev. Zarko Trifkovich
2) Chisholm, Minn.—Rev. Stef. Bozickovich
3) Kansas City, Kans.—Rev. George Milosavljevich
4) Milwaukee, Wis.—Rev. Paul Veljkov
5) St. Louis, Mo.—Rev. Anto Jaksich
6) South Omaha, Neb.—Rev. Petar Stijacich

The Bishop's Aid to Second Western Presbytery was elected Father Dimitrije Mitrovich, with these churches and priests:

1) Angeles Camp, Calif.—Vacant
2) Bisbee, Ar.—V. Rev. D. Mitrovich
3) Butte, Mont.—Rev. Marko Komnenich

4) Douglas, Alaska—Vacant
5) Glob, Ar.—Rev. Jak. Ocich
6) Jackson, Calif.—Rev. Seraphim Vukojevich
7) Los Angeles, Calif.—Vacant
8) San Francisco, Calif.—Vacant

The V. Rev. Sava Vojvodich, from Chicago, was elected as the chief—priest for aa 4 Presbyteries, to represent the Serbian Church, in America, before Archbishop of Orthodox Diocese, in North America.

His Grace Sir Archibishop suggests that the deserving priests should be recommended for promotion and awards —according to degree of their accomplishments.

Rev. Trbuhovich recommends "The American Srbobran" newspaper as an official Medium-Communication of the Serbian Church, which page, in the "Srbobran" would be edited by V. Rev. John Krajnovich. On the topic speaks Rev. Trbuhovich saying, that the Srbobran Federation is very much deserving for our churches and orthodoxy in America, and they should be helped.

V. Rev. Turkevich suggests that the Russian newspaper "The American Orthodox Messenger" should open few of their pages to Serbian Church. Archbishop accepts the idea adding, that he is willing to give 4 pages for this purpose, with a title: "The Serbian Church Messenger". This was accepted with a deep gratitude from Serbian priests, with decision that this Messenger should be an official publication of Serbian priests.

Recording Books (baptizms, marriages and burials) should be ordered and printed by Srbobran Federation. Agreed.

Archbishop suggests that some organization should be organized which would be named after St. Sava, or some other, which would print and spread the religious material,

in leaflet form, among the people for their better religious understanding and other information about the church activities. Agreed.

Archbishop suggests that once per year, every church should pass a collection plate, in church, for the sake of covering some official expenses and needs. Agreed.

Archbishop further suggests that some special award-certificate should be made which would be given to deserving church members and workers. Agreed.

The Motion was made by Rev. Sredanovich that Archimandrite Sebastian Dabovich should be elected as a PRIEST-CONFESSOR. Agreed.

V. Rev. Turkevich suggests that the Russians and Serbians should have joint cemetery—wheresoever they may live together, in the same place or city. Acknowledged.

Rev. Trbuhovich raises complaint against some russian priests, in Detroit, who are performing church services to his parishioners, especially Rev. Salko who is the worst. Advises Archbishop to take a firm action and put a stop once and forever to these discipline-breaking examples.

Archbishop asks would there be a need for some more Serbian priests, and the following places were numbered:

1) New York City
2) Philadelphia, Pa.
3) Baltimore, Md.
4) Lakawana, N.Y.
5) Lebanon, Pa.
6) Regina, Canada
7) So. Bethlehem, Pa.
8) New Duluth, Minn.
9) Cincinnati, O.
10) Cleveland, O.
11) Fairpoint, O.

12) Pueblo, Col.
13) Glob and Miami, Ar.
14) Tonopah, Nev.
15) Akron, O.
16) Los Angeles, Calif.
17) Douglas, Alaska
18) Angeles Camp, Calif.
19) San Francisco, Calif.
20) Brigham Canion, Yutah
21) Anaconda, Mont.
22) Kewanee & Peoria, Ill.

Attention is payed to Bishop's Aids to be very carefull in selecting the candidates to priesthood. Newly ordained priest will have two months practice before taking over a parish duty.

Rev. Trbuhovich appeals for uniformed church services. They should follow in this respect the way and pattern of Bishop Melentije.

Rev. Milosavljevich asks if he would be allowed to perform church services for Rumenians in their own native tongue. Archbishop says that would be very beneficial for these people to to hear the church services in their own language.

It's announced that the Holy "Miro" and Holy "Antimins" will be obtainable from the Bishop's Aids (Archpriests—).

Archbishop suggests that some preparatory religious courses for candidates to priesthood should be opened.

On the question of Rev. Jaksich, how does one obtain a priests diploma. Rev. Turkevich answeres: that those are issued by consistory for the fee of 10 dollars which goes to benevolent FUND.

Rev. Komnenich how one can get those record books which were taken away, by some priests. It is explained that those should be asked through the intervention of Bishop' Aid.

Rev. Veljkov asks if he can tell to his people, in Milwaukee, that he does not reconize the jurisdiction of Russian Archbishop, otherwise they won't accept him as their priest, Rev. Mitrovich answers: that the Assembly could not give such an aproval. Rev. Trbuhovich says that it is not of our concern what Rev. Veljkov will say around the corners in order to get a parish for himself.

Archbishop agrees to transfer Rev. P.Stijacich from Lakawana to South Omaha, Neb., because Lakawana does not want to have a priest untill they build their new church.

Rev. M. Stijacich pleads with the Assembly if he may reinforce his congregation with some families from Rev. Sredanovic and Rev. Vojvodich parishes, because, Indiana Harbor parish is to small. It is found that the above mentioned parishes are not better off numerically that Indiana Harbor.

It is decided that the next priests Assembly will be held next year in Johnstown, Pa.

Rev. Sredanovich took the minutes, which were aproved and signed by two witnesses to the minutes: V.Rev. Vojvodich and V.Rev. Krajnovich.

The Assembly was adjourned at 7 o'clock in the evening, with prayer. At the end Archbishop thanked all the participants encouraging them in their hard pastoral duty, not to be afraid of any obstacles in preaching Holy Gospel to the people. He was enthusiastically greeted, with "long live the Archbishop!"

DEFENDANT'S EXHIBIT 32

OFFICE
of The
HOLY GOVERNING SYNOD
section VI
July 6, 1917
No. 694.

TO THE HIEROSINGELOS
FATHER MARDARY

Office of the Holy Synod has a honor to notify Yoy, that according Your prayer You are released from Your church-teacher's duty. You are appoited to the service of His grace Aleutian and North-American Bishop.

Chief of Office P.Gurjev
General secretary G. Levitin

DEFENDANT'S EXHIBIT 33

TRANSLATION

BROTHERLY SERBIAN PEOPLE!

Some people in world is born during the war thunders and shakings of storms. A great misfortune fell upon the Serbian people in this world war. The Teuton hords devastated all Serbian land, killed and by hunger your martyred people. Jails were filled up with thousands of real fighters for the right of Serbian cause and thick darkness fell on beautiful Serbian land. Cries of innocent people: olds, women and children in echoing throughout the world.

But the spirit of the Serbian people didn't fall down. He remained on the hights of its historical mission. His heroic spirit in the present world war with its immortal efforts became stronger through the history of mankind. For a such nation, which got sympathy of the best part of mankind, in the great family of nations a proper place is secured. Very soon time will come for the rebirth of the Serbian people. With brothers—Croats and Slovenes—he will resurect with a greater power and glory.

Being all the time favorable to the Serbian people the great Russian nation already showed to them its brotherly feeling through the Russian Orthodox Church in America. Beside of her spiritual flock the Russian Church for a long time has been the guardian of the Serbian people in this over-oceanic land in which more than 200,000 Serbs find their shelter.

Finding that the time is ripe that to the Serbs should be given a possibility that they, themselves, may organize their own church life in America, *The Holy Synod of Russian Church decided, for the purpose of organizing an indcpendent Serbian Diocese, to send a known person and devoted panslavist and Serb, a candidate of Russian Academy, Father Mardary Uskokovich. He is appointed to be the chief of the serbian mission in America. His duty is;*

TO CALL A SERBIAN CHURCH-NATIONAL ASSEMBLY OF THE SERBIAN PRIESTS AND PEOPLE FOR THE ORGANIZING OF THE SERBIAN ORTHODOX CHURCH IN AMERICA.

In the name of the Russian Orthodox Church, I am notifying the Serbian priests and people and I am invoking God's blessing *for an independent church life of the Serbian people in America.* Let the immortal spirit of the greatest Saint of Serbian sountry—St. Sava be with the renewed Serbian Church in America that she may flourish for the glory in the name of Christ and for the benefit of the martyred Serbian nation.

Serbian Church in America, dear sister of our Russian Church, let be renewed in the spirit of unity ordered by Jesus the Saviour. Let all Serbian people be united in one integral Serbian Church, to be under the flag of church-national unity, in peace, in harmony and love, and to show in here the old glory of the Serbian Orthodoxy.

May Grace of our Lord Jesus Christ, and love of God the Father, and the communion of the Holy Spirit be with the faithful Serbian nation on its road of creating of the INDEPENDENT SERBIAN CHURCH IN AMERICA.

Governing the North-American
Orthodox Mission
Bishop ALEXANDER
October 23, 1917.
New York.

DEFENDANT'S EXHIBIT 35
SERBIAN EASTERN ORTHODOX DIOCESE
IN THE U.S. OF AMERICA AND CANADA
ADMINISTRATOR
RT.REV.ARCHIMANDRITE M A R D A R Y
CHICAGO, ILLINOIS
1905 Fowler street

Diocesan No. 1
January 30, 1923
Chicago, Ill.

Reverend father,

The Holy Archibishop's Synod of Serbian Patriarchate at its meeting of December 7th of 1922 in Belgrade, upon a recomendation of His Grace Bishop Nikolaj, unanimously elected me as administrator of Serbian Diocese in America which was established two years ago by the decission of Bishop's Council.

This is to notify you officialy for your knowledge.

You shoul to continue to mention in the holy services beside of name of His Holines Patriarch Dimitrios and the name of His Grace Bishop Nikolaj, who is canonical Bishop of this Diocese.

Confirm recept of this document.

(Seal) Archimandrite M A R D A R Y
Administrator of the Serbian Docese
in America

Rev.father
Nikodim Stoyakovich

A circular letter to all priests.

Mingo Jankshon.

DEFENDANT'S EXHIBIT 36

Serbian Orthodox Bishop
of Ochrida and America
Official
11/24 December 1922
in Belgrade

Dear father Archimandrite,

As His Holiness Patriarch said: You are directed to go to America to be administrator of overdere our church until God's will will be that we may come overdere.

Since in your new duty nobody is paying you, neither church nor Royal government, you will be forced to maintain yourself from your salary of parish which previously you served. Regarding your extra traveling and administrative Expences you have to make some agreement with clergy and church congregations.

Your first duty should be to teach our people to the christian life as it is established by the Orthodox Church. Pastorel and spiritual duty of a priest must be above all other duties.

A special attention should be given to those small our church colonies without priests. You have to organize that the neighboring priest may visit them. In colonies with a church and priest religion and educational life should be brought to the normal a regular way.

All spiritual - church cases, which are in jurisdiction of the Bishop, you will collect and send to us.

You should take care and help that in all property cases and dificulties our Church Congregations may obtain their rights and secure their properties.

We hope that our Consular Authorities, our clergy and people will help you with the same confidence with which the Holy Synod is sending you and we hope, not less, that you will justify that confidence by God's help and your work.

Let God help you on your road, on the see and the earth (Js. 43. 2-3) and be Your helper in Your service which is full of efforts and responsibilities.

With God's blessing
Bishop of Ochrida and
America
NIKOLAJ (signed)

Mr. Mardary Uskokovich
Archimandrite

DEFENDANT'S EXHIBIT 37
MINUTES
of the CONFERENCE of SERBIAN ORTHODOX PRIESTS of AMERICA, held FEB. 21st 1923, in GARY, IND.

Archmandrite Mardary extends a greeting to the gathered priesthood and explains about the position of this newly formed Diocese, about her affiliation toward the Church in the Kingdom of Serbs and Slovenes. In general, he is giving the future organization in connection with his appointment by the Holy Synod. All attending are listening carefully and then they elected him as vice president and secretary of this conference. As president was elected V. Rev. Nestor Vukicevich and Very Rev. Dushan Trbuhovich, who was elected as secretary, also.

Attending were: Administrator of the Diocese, V. Rev. Mardary Uskovich, V. Rev. Dushan Trbuhovich, V. Rev. Nestor Vukicevich, V. Rev. John Krajnovich, V. Rev. Danilo Kozomara, Rev. Paul Veljkov, Rev. John Smiljanich, Rev. Milan Mrvichin, Rev. Marko Komnenich, Rev. Hariton Marjanovich, Rev. Petar Stijachich, Rev. Dushan Bogich, Rev. Sofronije, Balabem, Rev. Jeronim Vukshich, and Rev. Joanikije Kukoljevich.

Rev. Filip Sredanovich, Rev. George Milosavljevich, Vlado Porobich, Zarko Trpulja and Zarko Trifkovich wrote that they are unable to attend.

The administrator of the Diocese gave a suggestion that a discussion may start about the material means for the maintenance of the Diocesan Board.

Rev. Smiljanich gave a motion that every priest may pay $25.00 for the Diocesan Fund for the beginning of work of the Central Diocesan Committee.

V. Rev. Trbuhovich presented a motion that every priest pay monthly per $5.00. Both motions are supported.

V. Rev. Danilo Kozomara is giving a motion that every priest may give *once* $25.00, counting $5.00 for 5 months and for other 7 months to give, monthly per $5.00.

Rev. Dushan Bogich supported these motions and they were accepted.

Rev. John Smiljanich is recommending that matricular books be established and the official certificates to be issued insted of those documents given by the Consulate General. Taxes for them to be the same as they were ordered by Consulate, that three members of the Diocesan Ecclesiastical Court be elected as well as one person for Secretary.

V. Rev. D. Kozomara presented a motion that as members of the Eccliastic Court, the following be elected. Krajnovich and Trubuhovich. Rev. Veljkov supported this motion which was unanimously accepted.

Rev. Smiljanich presented a motion that for other the other two members of the Ecclesiastic Court, be elected Shjachich and Comnjanich. Rev. Bogich supported this motion. Rev. Shjachich did not accept it. Rev. Veljkov presented a motion that D. Kozomara be secretary. They are unanimously elected: Rev. Kamnenich and D. Kozomara.

It has been resolved, that the Ecclesiastic Court may declare in order, some examinations for priests, and that this is to be equal to a diploma of the same examination as in the old country.

Upon the motion of Rev. Kozomare, it was resolved that the Church Congregations may accept the priest through the Ecclesiastic Court. The Ecclesistic Court has the right to announce selections and to permit the priests for competition.

It has been resolved that the Diocese may have her Diocesan Herald and as the editor, Rev. Stijachich was elected.

It has been resolved that tax for divorces before the Church Court should be $25.00, as it is in other Orthodox Churches in America.

All Signed—
Archmandrite Mardary
V. Rev. N. Vukicevich
Rev. P. Veljkov
Rev. Jeronim Vukshich
Rev. Hariton Marjanovich
Secretary
V. Rev. John Krajnovich
Rev. John Smiljanich
Rev. Dushan Bogovich
Rev. Dushan Trifunovich
Rev. Petar Stijatich
Rev. Sofronije Bolobem
V. Rev. Danilo Kozomara
Rev. M. Komnenich
Rev. M. Mrvichin
Rev. Joanikije Kukoljevich

DEFENDANT'S EXHIBIT 49

BISHOP
OF THE SERBIAN ORTHODOX DIOCESE
IN AMERICA AND CANADA
E. NUMBER 127
JULY 21, 1927

SERBIAN ORTHODOX CHURCH-SCHOOL CONGREGATION

Considering that the bringing of Diocesan Constitution is a vital question for the establishment, progress and future of our Diocese and of all our nation in America and Canada, WE, as Diocesan Bishop, decided to call THE FIRST CHURCH-NATIONAL ASSEMBLY OF THE SERBIAN ORTHODOX DIOCESE IN AMERICA AND CANADA, which will be held on the First day of September of 1927 according to the new calendar (Gregorian) at the Monastery of St. Sava in Libertyville, Illinois.

We announce to you about that decision and invite you, as Diocesan Bishop, that you, for this Assembly elect and send two delegates as representatives of Your Church Congregation which will, together with you Bishop and the delegates of other Congregations, of Fraternal Benevolent organizations and of other organizations from all over America, prepare a CONSTITUTION FOR OUR DIOCESE. According to its position your priest is considered as a legal member of the Assembly.

Let the Church-School Congregation on a meeting during the month of August of this year elect by majority votes, the delegates, and to send them together with the priests, to the Assembly. Your Congregation, by that manner, will brotherly participate at this very important and historic Church-National Assembly and help in the bringing of the Constitution and to create a strong church

organization for the security of a prosperous future to the Serbian Church and Serbian people in here. In a mutual brotherly understanding and work we could create better and more fortunate days for the Serbian young generation in American and Canada. In the name of young and future generations of our nation in this country, I am, as Your Bishop inviting Your Congregation to this spiritual upraising under the unfolded flag of St. Sava Nemanjich. Let your congregation be among the first lines for the glory and pride of our holy Serbian Orthodox Church and of our dear Serbian People.

With the Archbishop's greeting and blessing,

Bishop
of America and Canada

DEFENDANT'S EXHIBIT 51
PART OF THE CONSTITUTION
of the
Serbian Eastern Orthodox Diocese in the United States of America and Canada
1928

Syn. No. 2386, from 1928

By the authority of the Holy Episcopal Assembly of the Serbian Orthodox Church EANo. 14/77, from 12/25 of October, 1928, this Constitution was approved.

At the meeting of the Holy Episcopal Synod, held in Belgrade, December 1/14, 1928.

(Place of Seal)
Holy Synod of the Serbian
Orthodox Church, in Belgrade.

President of the Holy Episcopal
Synod Metropolitan of Belgrade and
Karlovei and the Patriarch of Serbs
DIMITRIJE

Members of the Holy Episcopal
Synod: Metropolitan of Crna Gora
and the Coast
GAVRILO

Bishop of Temisvar and Velika
Kikinda
GEORGIJE

Bishop of Nis
DOSITEJ

Bishop of Timok
EMILIJAN

EXPLANATION OF THE HOLY EPISCOPAL SYNOD

On the Constitution of the Serbian Eastern-Orthodox Diocese in the United States of America and Canada, approved on the meeting of the Holy Episcopal Assembly from October 12 (25), 1928, EANo 14/min. 77.

1. The main principle which must be always considered at the time of approval of the autonomous organization of a church branch is this, that the top church authority which gives approval of the autonomous administration to some of its branches with an organizational regulation, is guaranteed the right of approval of any changes of such an organizational regulation. In regards to this, to section 8, article 23, after the words: ("The Diocesan Assembly) . . . decides about the additions and changes in the Constitution", the following words should be added: "with the approval of the Holy Episcopal Assembly of the Serbian Patriarchate".

II. Beside this main function, about the additions and changes of the organizational regulation, the spiritual church authority should, also, watch over the rest of the legislative and executive business of church autonomy, that there would not be any limit crossing in the sphere of activity of church self-government and that there would not be, especially in the domain of internal church Government, any violation done to the unchangeable canonical and judicial, religious and moral principles and to the very foundation of Orthodox Church. So, in article 12, after the sentence: "he, (that is, the Diocesan Bishop) won't make any changes and innovations in regulations and any other church work without the consultation of him (that is, of the Serbian Patriarch"), must enter a separate sentence: "Therefore the Diocesan Bishop will show to Serbian Patriarch all the regulations, which will be made by any of the diocesan bodies, which will, if they are touching the

sphere of internal church government, depend upon the approval of the Holy Episcopal Synod, as the highest church executive power". Also, in article 58, section 1, after the words: "The Court's procedure and the working plan for Church Consistory will be made immediately, as soon as this Constitution is approved, by the members of Church Cosistory, themselves", the following words should be added: "with the approval of the Holy Episcopal Synod of the Serbian Patriarchate".

And, in the case of conflict about the jurisdiction the decision will be withheld for the highest church authority, which is the Holy Episcopal Synod, and so, in the article 58, section 2, after the words: "if between a board and the Diocesan Church Consistory comes to some kind of misunderstanding about the jurisdiction, the decision will be made by the Diocesan Council in the PLENUM, to which the controversial subject will be submitted by the Bishop "—will come this separate sentence: "if the Bishop does not agree with this decision, then, the subject matter will be sent to the Holy Episcopal Synod of the Serbian Patriarchate for final approval"; same thing goes if there is some misunderstanding about the jurisdiction between the Bishop and the Church Consistory and any other church authority or official. This includes the rights of the Bishop as the hierarchical representative on so called "veto power" against the decision of the Diocesan Councel to the same Councel for the renewal of discussion and the final decision, and instead of article 54, by which the Bishop uses the "veto power" against the decision of Church Consistory to the same Consistory for the renewal of the process and the final decision, should enter into the article 12, as a separate close, this: "If the Diocesan Bishop finds, being convinced first himself that the deci-

sions of any church authorities or officials are contradictory to the teachings of the Holy Church, the Holy canons and the best interests of the church, then, he will stop the execution of such a decision and the matter submit for a new discussion and the decision; if he disagrees again, then, the controversial subject will be brought up before the higher authorities for its final decision, in case of necessity even before the Episcopai Synod". All these measures are necessary as a guarantee to Serbian Church, which, beside the responsibility to Orthodox Church, watches over the wellfare of the autonomous Diocese in America, that that Diocese would not go astray at the expense of the church and its unchangeable canonical-religious and moral principles.

III. All these measures of precaution are nothing, if there is not enough precaution taken at the time of selection of the Diocesan Bishop, the main hierarchical representative of the autonomous church in America. Therefore, in article 9, after the words: "the Bishop . . . is chosen by Serbian Patriarch" the following words should be left out: "but first with the agreement of this Diocesan Council."

Also, instead of the words: "the Serbian Patriarchate" should be: "The Holy Episcopal Assembly of Serbian Patriarchate".

The Bishop should be corrector of the autonomous life and its main hierarchical representative in the far-away-land, the true and exclusive exponent of the will of the highest hierarchical authority, having in him the full confidence.

The big responsibility would be placed upon the Serbian Church, if this guarantee for Orthodox Church would be left out, as a special favor to Church in America, giving her the widest possible autonomy, where the freedom of its citizens is so great and known. For this reason the question of Bishop's assistant should be carefully examined, and so, then, the first sentence in article 13, which reads: "during the sickness or absence of the Diocesan Bishop he himself shall find his assistant", should be supplemented with these words: "and determines the sphere of his work"; and the second sentence, of the same article, which reads: "When the Diocesan See is vacant, the widow-Diocese will be governed in all its spiritual and administrative matters by her Diocesan Consistory and the Diocesan Council" should be supplemented by the words: "untill such a time comes that the administrator is appointed, which is done by Serbian Patriarch with the Holy Episcopal Synod". And, instead of the words: "governs the widow-Diocese" should come the expression: "assumes the administration of the widow-Diocese".

IV. And the appointments of parochial priests as hierarchical representatives in the parish should be limited, and some rights about this should be reserved for the bishop. So then, in article 117, after the words: "At the time of bidding, the candidates will enclose with their petition the original theological diploma, and the official letter (GRAMATA) about their ordination to the priesthood", the following words should be added: "to the Diocesan Bishop, who examines the qualifications and allows to the election only those, who are possessing the necessary ability". The second sentence, in article 118, by which the bishop approves the priest elect, which rights are granted to him in the first sentence of the same article, should be left out.

V. Since the Monastery will be governed by a separately made regulation, then, in article 39, section 6 the words: "and the Monastery" should be left out.

Likewise, in the article 57, in section 4, "as far as the relation is concerned unto the autonomous organization

that will be separately treated". And the article 14, section 2, should be read: "The Diocesan Bishop is at the same time the supreme abbot of the Saint Sava Monastery, in Libertyville, appoints there the abbot and executes canonical and executive rights over the monastery".

VI. The construction of the article 143 and 145, is changed in favor of priest's support, which is of great importance to his general and theological qualifications and perfection.

DEFENDANT'S EXHIBIT 61
CHARGES WITHOUT SIGNATURE
NO. 32
November 27, 1962
Chicago,

November 27, 1962
Chicago,

Your Grace,

In connection with our conversation and by Your wishes I am sending to you this information:

Bishop Dionisije can not stand anybody around him.

Firstly he succeeded to put emnity between Bishop Nikolai and Irinej, by his intrigues. He chased out Bishop Irinej from his living quarters. He lived in the old build-

ing with other personnel, afterwards. He had to leave Libertyville, and soon went to England. There he even died.

Bishop Nikolai, under the pressure of Bishop Dionisije and the monks at that time, (Nikano Paljich, later defrocked because of marriage and the children born in concubine status; and the present Diocesan secretary Dimitrije Balach, he cursed him his lazy and greedy mother) went at first to Slavko Stokovich and then to Russians in Canan. There he even died.

He chased out Dimitrije Balach from the monastery and for two months one didn't know where to find him. The arguments started because of bishop's girlfriend, Milka Shuka. You don't see nothing from Milka's. . . . It's on Your nose. . . . Balach has said to Bishop Dionisije. This happened in front of young and before, at that time secretary of Diocese, arch. Rirmilian.

He chased out Firmilian under the pretense that one cannot work with him anymore. At first he tried to smear him up as distrustful diocesan financial secretary. Haven't succeeded in this, he fired him from the office and monastery with any justification. Firmilian wondered around the Libertyville and Chicago for long time without any means for livelihood. He was supported by his many friends.

The V. Rev. Sava Mikovich, (now in Yugoslavia, monastery of St. Stefan, in Boka) because of witnessing to too many bishop's unpriestly ventures, had been chased out from the Monastery and Shadeland. He wondered around from bad to worse for more than a year. Finally, he went to Yuvoslavia. Sava is 80 years old. He was merciless to that man.

Svetozar Radovanovich was chased out in the street not knowing he himself why. Many times he pulled his leg but somehow they were making up again and continued together in the work. Since he hasn't succeeded to smear him up, at one of court's meetings he hid some of his documents and this he took as reason to release him at once from all duties and chased him in the street penniless. Having been asked by some friends how is he supporting himself, he answered: by the wishes of my bishop I am grazing and therefore am always plenty fed.

Ugljesa Jelich was released from the duty as parochial priest in Libertyville only for the reason that he couldn't stand any longer the intrigues between him as priest and the members of congregation's board. That Ugljesa could get another means of support he agreed to sign the notice of release as if he himself wanted to leave from Libertyville.

BISHOP DIONISIJE AND THE BUSINESS

Buying and selling of real-estate and business speculations are taking three quorters of his time. Church business he is doing on a hurry and without any thinking, his commercial business he is doing very conscientiously, with concentration and thoughtfulness.

Inasmuch as it's known to me he has a big property in California. On some properties, in California, he has even buildings for rent. In the state of Illinois he has on many places houses and lots. In Waukegan he has a vacant lot beside the very Lake of Michigan, a two floor house, which he gave to some Frances (called Bozic) now married to Milan Teodosich, a former son-in-law to V. Rev. Mladen Vukicevich, in Jagodina. Bishop's love affair with this Frances costs him over $30,000. The house itself costs over

$20,000 and the furcoats, dresses and jewelry over $10,000. For all of this knows even her present husband Milan Teodosich. As a matter of fact bishop even talked Frances into marring the Milan even thou he wasn't as yet been divorced from his first wife, the doughter of V. Rev. Mladen. In Libertyville he purchased a house on his name but not long after he had transferred it on his first love in America, Milka Shuka. He sold her the house but under the condition to return it back to him after her death. The house was paid over $18,000. All details about this bishop's transactions knows Toma Stankovich, Slavko Stokovich, from Libertyville and, may be, even archimandrite Firmilian now the pastor in New York. Probably with this is acquainted even a former Diocesan secretary, Svetozar Radovanovich, now in Waukegan. He threw out Milka Shuka from bishop's residence, unable to take any more of her terrors over bishop and the Diocesan personnel.

In Canada, in Niagra Falls, he has purchased over 100 acres of land two years ago and immediately he took away 15 acres and gave as present to his youngest girlfriend Rada Milentijevic. Stanimir Jakovljevich, a store keeper in Chicago, is correctly informed about the value of this land and how much is given as present to Rada and how much this land worth today. About this present even today is spoken in Chicago and vicinity with laughings at bishop. By the Buffalo, in the state of New York, he has also a big property, purchased several years ago for cheap money. Close to the Monastery he has an old peoples' home in partnership with Slavko Stokovich. Monthly he clears exactly $1,000. Such an agreement is made between the partners.

BISHOP AND WOMEN

Beside Milka Shuka who, some time back, ruled the Diocese and was a scandal in this land, bishop Dionisije had and he has yet a many more women, according to his own words (arch. Firmilian, Toma Starkovic, Svetozar

Radovanovic, Slavko Stokovic, Dimitrije Jovanovic, Dr. Urosh Seferovic, Momcilo Djujic, Irinej Kovacevic, Dusan Popovic, Branko Kusonjic and others).—Rada Milentijevic, as a student in Chicago, to whom bishop had bought firstly a Chevrolet and later a Cadillac car, walked openly arm under arm with him in Chicago. They met at motels, hotels and private homes. She traveled in the car with him to California and other places in America and Canada. —In Elgin, about 30 miles from the Monastery, in the house of Milan Pavlovic, he made the advances to land-lady Anna and offered to her his love. She hardly defended herself against temptation, according to her own words. When her husband came home from work, she complained to him. Before witnesses: Spiro Milosevic, Miodrag Andric, Manic (the younger one), Miltar Jovanovic and yet some others he threatened to break the bishop's ribs. It actually had happened in the house of Elgin's only Serbian teacher. A former pastor in St. Louis, Milan Rakic hardly defended the bishop Dionisije from the husband of a woman (by name of Anna). Namely, bishop had attacked this woman in children's camp in Libertyville and she upon the return back home had firstly told her pastor Rakich and after that to her husband about the experience with her bishop in Libertyville. Thanks to Rakich, bishop Dionisije wasn't taken to the court to take away the shame inflicted to this family. This is known to: Svetozar Maravic, Katic, Djordje Lazich; the entire St. Louis knows. This incident arose the indignation of the entire St. Louis.

V.Rev. Nikolai Dazgich in his house, in San Diego, before fifteen the most prominent Serbs, had spoken how he and the bishop went to a whore house, in Mexico, and they had a good time there. This he even said before Dr. Seferovich. Dr. Seferovich repeated this before a number of his co-workers. When bishop heard about this, he said:

"I'll make even with Dazgich". A short time after the diocesan court defrocked Dazgich because of marriage. About this case is very well informed the pastor in Chicago, who could produce many more details.—On Milosh Vidakovich's patron saint celebration, in Waukegan, May 6, 1958, (Milosh was then the president of monastery's church-school congregation) there was as guest even bishop Dionisije. He was very rude toward a lady (by name of Kaja). He was reminded even by the host and the husband of that lady, but bishop wouldn't pay any attention to them. He was feeling the lower part of this woman's body before all the guests. The host Vidakovich, seeing that this already passed the limit, took him, the bishop, by the hand and threw him out through the door. About this incident with the bishop the talks were going on for a long time, in Waukegan and the surrounding areas, and many more things were added.—On a celebration, in Waukegan, in Slavinian Hall, before a big crowd of people in his address, he said even these words: "Some of you wouldn't work saying that you are old; I am still young. See, there are among you good ladies who know that I am young".

SOME OTHER PICTURES

In Chicago before a big crowd of people, women, girls and children, in church hall, found necessary to say, in his address, even these: "Many don't like me, some would like to see me without hands, some without legs, some would like to see me dead, and some want even to cut off this. . ." pointing down with his hand towards the lower part of his body.—After these words many had left the hall with their wives and children, cursing the simpleton bishop.— Tomorrow morning Chicago was flooded with leaflets against bishop and his unbishop's behavior before respectful people. That leaflet is sent to Patriarchate, in Belgrade.

He sends Ljubisav Djurich to parish in So. Saint Paul with a warm recommendation to church board. At the same time writes another letter to Dr. Korac to make impossible for Ljubisav to work in the parish, since he used to kill the people, good Serbs while yet living in Serbia. By one investigation from So. St. Paul, the court's commission found the work of Rev. Djurich to be okay. But at the end of investigation a young fellow submitted to court's commission a letter from Bishop Dionisije to Dr. Korac at which V.Rev. Andra Popovic cried out:—This is a scandal and the shame of Dionisije. With one letter he praises him and with other asks his head . . . Ljubisav was removed from the parish by bishop Dionisije althou the church court had decided otherwise under his presiding. He threw out an upright priest in the streets with wife and two small children without a cent in the pocket and without any guilt. Thanks to his American friends who found job for him in the bank, who knows what would happen to him and his family.

Good and able seminarits he cannot stand and mercilessly persecutes and gossips. Milutin Devrnja, Borko Borcic, Sava Vujnovic and others are completely excluded from the participation in church's life. They are now with their ebilites on other jobs instead of church's business.

He makes situation impossible for young priest Radoslav Kovacevic, in his parochial works, because his young wife wouldn't accept the offer in becoming his mistress. Even Kovacevic knows it, and—struggles, working in factory to earn daily bread for his children.

Young and enthusiastic monk Timotel Tepsic has left not only monastery and the diocese, where he worked like a beaver, but he dropped even the Orthodoxy on account of Dionisije.

An old Belgrad's preacher, Svetozar Radovanovic, was occupied with a thought himself to leave Dionisije and look for shelter with some Russian bishop, but because for some reasons went back to Dionisije and today lives in his shadow in a parish with a smallest pay.

Very frequently bishop is engaged in the orgies with problematic women in the monastery's house, in Libertyville. Because of that he chased out on the street the old Sava Mikovic, at first from the monastery and after that even from the diocese just to be sure not to have him as a witness to his venturous.

Just like by some rule, Bishop Dionisije leaves the monastery every night and returns with marks of lipstick and unzipped pants.

In the house of Milan Andjelkovich in Libertyville, before his wife, Sophie, Toma Stankovic janitor, Mita Jovanovich former church's president, Slavko Stokovich and some others, in the course of bishop's scandalous conversation had added even these words, "And what Milka wants? Does she think that I should belong only to her—old woman? I like them young and they like me. I have in every place one or two. My women are sweet. Nobody should mind this. I am a man just like anybody else. I have right to live."

Bishop Dionisije didn't like the way the monastery's parish executive board was formed. He wanted to disqualify it and replace it with another one. He called in to dinner in the diocese Miodrag Andric and Spiro Milosevic the day when regular monthly meeting of membership was taking place. Here he told them to go to the meeting and cause disorder. They just did that. The same night he dismissed the board and blocked the money in the bank. The freezing of church's money he didn't succeed, but with the stroke of a pen he dismissed the board.

In the home of Bogoje Manich from Elgin, he quarreled with Miodrag Andric and Andric jumped to his with with scissors in the hands to cut off his beard. Those who were present at the moment of arguments, sided with bishop and Andric out, otherwise he would beat up the bishop to death the way he expressed himself later on.

With Stana Boduljak or Batoljan from Montreal, he slep over night in a hotel room in Hamilton registered as husband and wife. Later on he went with her to Windsor to perform pontificial mass. People in Windsor reminded him not to do this next time. Somehow they happened to hear about this incident. This affair with Stana knows much better Rev. Vukelich from Hamilton, Petar Bulat from Windsor and also everybody in Windsor.

If everything would be written down about bishop Dionisije there should be written a whole book.

To Your Grace obedient

Admirer

DEFENDANT'S EXHIBIT 64

W E

ALEXANDER I

BY GRACE OF GOD AND OF PEOPLE

KING OF SERBS, CROATS AND SLOVENES

Upon the recommendation of the Representative of our Minister of Religion, our Minister of Education, and according the articles 25, and 26 of Law of Church authorities, are appointing:

As BISHOP of America and Canadian Serbian Orthodox Diocese in Chicago the newly Ardained Bishop MARDARY.

The Representative of our Minister of Religion, our Minister of Education, should exercise this order.

April 25, 1926 year in Belgrade.

ALEXANDER

(Signed)

Representative of Minister of
Religion and Minister of Education
M. Trifunovich (Signed)

That this is a true copy of its original, which is preserved in archive of Ministry of Justice under Sicret B. No. 239/1926 year, certifies:

According the order of
Minister of Justice

(Seal)

Chief,
Ljub. D. Popovich
(Signed)

DEFENDANTS' EXHIBIT 77

PATRIARCHATE OF THE SERBIAN ORTHODOX CHURCH
Num. 3969/Min.
25/12 June 1938
BEOGRAD

To the Ecclesiastical Court of The American and Canadian Diocese

The Holy Bishop's Synod of the Serbian Orthodox Church under the above number and date brought the following decision:

"To release His Grace Bishop of Dalmatia Lord Irinej of duty as administrator of the American and Canadian Diocese with the date of July 1st of this year, and notify about it His Grace Bishop of Dalmatia Irinej as well as The Ecclesiastical Court of the American and Canadian Diocese with an order: to publish the election of His Grace Bishop Lord Damaskin to be known to all clergy and people about his election and that His Grace Bishop Damaskin with the date of July 1st of this year undertook duty as diocesan Bishop."

The above said is notified the Ecclesiastical Court for its knowledge and procedure.

For The president of the
Holy Bishop's Synod,
member, Metropolitan of Skoplje
JOSEPH
(signed)

DEFENDANTS' EXHIBIT 78

PATRIARCHATE OF THE SERBIAN ORTHODOX CHURCH
No. 3282/min. 741
June 23/10 1936
Sremski Karlovei.

TO THE ECCLESIASTICAL COURT OF THE AMERICAN AND CANADIAN DIOCESE:
Libertyville, Ill.

At its meeting on June 8/21 number AC 88/Min. 150 of 1936 The Holy Archbishop's Assembly decided that widowed Diocese of America and Canada until next regular meeting of the Holy Assembly should not be fulfilled, but during that time as administrator of that Diocese to His Grace Bishop Irinej (Djordjevich), Bishop of Dalmatia.

Executing that decision The Holy Bishop's Assembly at its meeting under the above number and date, is notifying about it the Ecclesiastical Court that this decision could be published for the knowledge of the faithful.

For The President of
The Bishop's Synod
Metropolitan of Zagreb
DOSITEJ.

DEFENDANT'S EXHIBIT 81

RESOLUTION

of the IXth Diocesan Church-Peoples Assembly held 13, 14 and 15 of September 1960, at St. Sava Monastery under the presidentship of His Grace Bishop Sir Dionisije.

Over 150 delegates, priests, representatives of Serbian Church-school congregations of America and Canadian Diocese and benevolent and national organizations from America and Canada, gathered at its IXth Diocesan Church-Peoples Assembly at St. Sava Monastery, are directing their prayers to Lord the God for every goodness, progress and prosperity of our new homelands: the United States of America and Canada and are announcing their loyalty to their democratic constitutions, deciding:

1. It's given full support to our Diocesan Bishop Sir Dionisije on church-national activity and grouping of all constructive patriotic forces and organizations of the entire free Serbian emigration in the free world and the leadership in the fight against the atheistic communism in

the world and especially against the communistic distatorship's regime in Yugoslavia, which enslaved even Serbian people and the Serbian Orthodox Church, as other religious denominations in general;

2. His Holiness Serbian Patriarch is petitioned, that the geographical territories of South America are finally added to Serbian Orthodox American and Canadian Diocese which must be elevated to level of Metropolia, with two vicar-bishops as helpers to our bishop;

3. It condemns and rejects the creation of so-called "Macedonian Church", which is the creation of communistic regime, for by that creation is broken the unity and the whole of Serbian Orthodox Church;

4. It is given full recognition and gratitude to our great benefactors Mr. & Mrs. Todor and Andja Polich from San Marino, California, for a beautiful foundation, intended to Serbian children, on diocesan property at Shadeland, Pa.;

5. The diocesan Church-Peoples Assembly has brought the additional regulations about the sunday and parochial schools as well as of Federation of Serbian Circle Sisters, and about the Priests' Pension Fund of our Diocese;

6. It's resolved, that the Bishop's vicarate is organized for Canada as well as the national cultural-educational center for Canada, which would connect all our congregations in Canada;

7. It's resolved, that for Pacific, western America, is formed wider board of our Bishop's vicarate in which are included all priests and one representative of our Church-school Congregations, and to purchase suitable land which would be as our center and children's camp for far west;

8. It's resolved, that all our Church-school Congregations in America and Canada, divide into 4 classes according to their size, and determine how much each class will

be taxed for Diocesan treasury, independently of individual membership's fee;

9. It's saluted His Majesty the King Petar II, and his struggle supported against communists' tyranny in Yugoslavia, and also are saluted all our patriotic national organizations which are fighting against communism in the world and especially against communists' tyranny in Yugoslavia;

10. It's resolved, that all our Church-school Congregations of American and Canadian Diocese make their by-laws uniformed and according to Constitution of our Diocese and as such incorporate-charter them with their state authorities;

11. It's decided, that our Monastery's cemetery is better taken care of, and that the constant care is established of the same, through a special committee;

12. It's resolved, that the candidates for priesthood, of American and Canadian Diocese, untill our seminary is reopened in St. Sava Monastery, are sent to some other orthodox seminaries and after the graduation, then that their knowledge is completed by special courses from national Serbian subjects.

Serbian Orthodox
for America and Canada Bishop
+ Dionisije

St. Sava Monastery
September 15, 1960

DEFENDANT'S EXHIBIT 99

Holy Bishops' Synod
Of Serbian Orthodox Church
No. 2091/min. 357
7.XI/25.X. 1946.
in Belgrade

It's taken in consideration the complaint of Rev. Nikola Drenovac, priest from Youngstown, Ohio, of American and Canadian Diocese against the judgment of Serbian Orthodox Church Court of American and Canadian Diocese from February 6, 1945, No. 3 from 1945, by which the same priest, on the basis of article 210 of Serbian Orthodox Church Constitution, for various offenses of breaking the priestly discipline and church's order and to the reference of articles 6 and 81 of Holy Apostles, rule 6 of II Ec. Council, rules 7 and 18 of IV Ec. Council, rule 10 of VII Ec. Council, rule 13 of IX Local Council, was suspended on one year from his priestly duties, counting from the day of deliberation of punishment and the permanent loss of parochial duties and the title of parochial priest in the Serbian Orthodox American and Canadian Diocese, taking away from him his canonic status with American and Canadian Diocese, and returning him back under the above punishment to his former Diocese in Yugoslavia from which he came.

Having examined the complaint and the judgment, Holy Bishops' Synod of Serbian Orthodox Church as the highest and the last church-court of appeals in the sense of paragraph 53 of Serbian Orthodox American and Canadian Diocese, is making this

JUDGMENT

The complaint of Rev. Nikola Drenovac, priest in Youngstown, Ohio, isn't honored, but the same is rejected as inappropriate, and the attacked judgment, by which the defendant Rev. Nikola Drenovac, because of the offense of disobedience unto his juridicial church authority, rule 39 of the Apostles, rule 8 of IV Ec. Council, rule 13 of IX Local Council, rule 5 of Antioch's Council, as well as for disturbance of church's order, rule 18 of IV Ec. Council

and being involved in civil matters, rules 6 and 81 of the Apostles, rule 10 of VII Ec. Council, is announced as guilty, for the reasons quoted in the judgment, is reenforced in that part, by which proven offenses this punishment was delivered the loss of his parochial position, that is the title, article 210 point 7 of Serbian Orthodox Church Constitution, while in the other parts of deposition of this judgment, the numbered punishments about the suspension from priestly duty on one year, and the denial of canonic status of acceptance—is nullified for the quoted reasons in the explanation of this judgment.

This judgment must be sent to Serbian Orthodox Church court of American and Canadian Diocese for acknowledgment, and through the same court even to Rev. Nikola Drenovac providing that this judgment in the sense of paragraph 53 of the Constitution of Serbian Orthodox American and Canadian Diocese is final as of now.

EXPLANATION:

Holy Bishops' Synod having examined the attacked judgment has found, regardless of defendant's complaint, that the attacked judgment in that part by which the defendant is punished by two main punishments from regulations of article 210 of Serbian Orthodox Church Constitution and with punishment from point 6 and punishment from point 7, is incorrect, since and according to general law and even church-judicial regulations at the time of deliberation of sentence upon the guilty one for all the offences: apostles rule 25, except in exceptional cases, there must be delivered one general punishment. In a concrete case in the attacked judgment the defendant was punished beside the punishment from period 7 of article 210 of Serbian Orthodox Church Constitution even the punishment from period 6

of the same article of the Constitution, which beside the first punishment hasn't got any function and it's fully unnecessary, because it's already found in main punishment, period 7 of article 210 of Serbian Orthodox Church Constitution. Secondary ruling of judgment, by which the defendant is losing his canonic status of acceptance into American and Canadian Diocese, is in contradiction with apostles rule 32 by which the punished priest must remain even further under the supervision of that Bishop, who had suspended him from duties.

On the basis of all transpired Holy Bishops' Synod, having reenforced the main punishment which is foreseen in the attacked judgment for the defendant, has changed this judgment in the other parts of judgment and brought the judgment as it is above.

For President
Of Holy Bishops' Synod
member, Metropolitan of Skoplje

(place of seal)

JOSEPH

DEFENDANTS' EXHIBIT 101

Holy Bishops' Synod
Of Serbian Orthodox Church
No. 2090/min. 358
7.IX/25.X. 1946
In Belgrade

It's taken in consideration the complaint of Rev. Strahinja Maletich, priest from Aliquippa, Pa., of the American and Canadian Diocese against the judgment of Church Court of Serbian Orthodox American and Canadian Diocese from February 6, 1945, R. No. 2 by which the same

priest, on the basis of article 210 of Serbian Orthodox Church Constitution, because of various offenses and breaking of priest's discipline and church order and with the usage of 6 and 81 apostolic rules, rule 6 of II Ec. Council, rules 7 & 8 of IV Ec. Council, rule 10 of VII Ec. Council, rule 13 of Local Council, is judged and suspended for one year from performance of his priestly duties counting from the day of this judgment and the permanent loss of parochial position and the title of parochial priest in Serbian Orthodox American and Canadian Diocese, considering as worthless his canonic aceptance into American and Canadian Diocese and returning him back under the above punishment to his earlier Diocese in Yugoslavia from which he came.

After going over this complaint and the judgment, Holy Bishops' Synod of Serbian Orthodox Church as the highest Church Court of Appeals in the sense of paragraph 53 of Serbian Orthodox Church Constitution of American and Canadian Diocese is making this

JUDGMENT

The complaint of Rev. Strahinja Maletich is not to be considered, but the same is denied as improper, and the attacked judgment, by which the defendant Rev. Strahinja Maletich, because of the offenses of disobedience unto his juridicial church's authority, apostolic rule 39, rule 8 of IV Ec. Council, rule 13 of IX Local Council, rule 5 of Antioch's Council; and because of disruption of church's order, rule 18 of IV Ec. Council; and mixing up in civil affairs, rule 6 & 81 of Holy Apostles, rule 10 of VII Ec. Council, announced as guilty with the reasons quoted in the same is reenforced in that part by which for the proven offenses the punishment is passed of "the loss of parochial duty

and the title," article 210 period 7 of Serbian Orthodox Church Constitution, while in the other parts of deposition of this judgment the punishments of suspension from priestly duties for one year with secondary rulings where his canonic acceptance is made worthless, is made powerless for the quoted reasons in the part of explanation of this judgment. This judgment must be sent to Serbian Orthodox Church Court of American and Canadian Diocese for acknowledgment and the execution and through the same court even to Rev. Strahinja Maletich providing that this judgment, in the sense of paragraph 53 of Serbian Orthodox Church Constitution of American and Canadian Diocese, is considered as final.

EXPLANATION:

Holy Bishops' Synod having examined the attacked judgment found, regardless of Defendant's complaint, that it is, in that part by which the defendant is punished with two main punishments from regulation in article 210 of Serbian Orthodox Church Constitution and with punishment from period 6, and with punishment from period 7, incorrect, for according to general law and even church law regulations, at the time of sentencing the guilty one for all offenses (apostolic rule 25) except in exceptional cases, there must be passed only one general sentence. In a concrte case in the attacked judgment the passed sentence to the defendant, from point 6 article 210 of Serbian Orthodox Church Constitution, in addition to punishment from point 7 of the same article of Constitution, hasn't got any significance and it's fully excessive, since it's already contained in the first punishment. The secondary ruling of judgment, in which it's being denied to defendant, his further canonic status in American and Canadian Diocese, is

in contradiction with the regulations of Apostolic rule 32 by which the punished priest must remain even further under the spiritual supervision of that Bishop who had suspended him from the duty.

On the basis of all presented the Holy Bishops' Synod, reenforcing the main punishment which is contained in the attacked judgment, has changed the other parts of judgment and made the judgment as it is above.

For President
Of Holy Bishops' Synod
member, Metropolitan of Skoplje,
(place of seal)
JOSEPH

DEFENDANTS' EXHIBIT 113

Holy Bishops' Synod
of Serbian Orthodox Church
No. 541/1949, min.339 from 1950.
May 3/April 20, 1950.
in Belgrade

It's taken, in the sense of article 54 of the Serbian Orthodox Church Constitution of American and Canadian Diocese, in consideration of the judgment of Church Court of American and Canadian Orthodox Diocese from July 27, 1949, No. 26 from 1949, by which the Rev. Vojislav Gacinovich, a missionary with St. George Church in Pittsburgh, Pa., because of disobedience and church disorder, contrary to holy canons, was brought to the court to be judged and defrocked from his priestly rank, as well as the appeal of Rev. Vojislav Gacinovich submitted in proper manner and in the legal time against that judgment, and after the

consideration the Holy Bishops' Synod had brought the following

JUDGMENT:

The appeal of Rev. Vojislav Gacinovich, a missionary with the St. George's Church in Pittsburgh, Pa., against the judgment of Church Court of American and Canadian Diocese from July 27, 1949, No. 26 from 1949, by which he was judged to be defrocked from his priestly rank, to deny as baseless, but in the sense of utmost compassion and in regards that all these offences were done under the extraordinary circumstances, to change even the very judgment of Church Court and the punishment of defrockment from priestly rank to exchange it with the punishment from Article 216 of the Serbian Orthodox Church Constitution, period 6 "with the loss of parish position . . ."

This judgment is to be sent to Church Court of American and Canadian Diocese for acknowledgment and the defendant's information, with the return of all court documents.

For President
Of Holy Bishops' Synod
member, Metropolitan of Crna Gora and Primorje
Arsenije
(signed)

DEFENDANTS' EXHIBIT 116

Zagreb, August 16, 1962
Prilaz JNA No. 4

Your Grace.

In connection with the decision of the Holy Bishops' Assembly regarding sending a delegation of our Church to the United States of America for a study of your motions submitted to the Holy Bishops' Assembly—which decision you have already received—I have the honor to notify you that our delegation, God willing, will leave for France on September 10th of this year proceeding to Paris by train, and from Paris by airplane for New York.

The exact day of the arrival of the Delegation in Chicago and Libertyville we cannot project at the present time, but you will be so notified from New York.

And, with this occasion, I am transmiting to Your Grace my sincere greetings and best wishes.

YOURS
In brotherly love
M. DAMASKIN (signed)

DEFENDANTS' EXHIBIT 142

The Holy Bishops' Synod
of the Serbian Orthodox Church
Number 1323/Min. 214
April 20, 1962
Belgrade

Your Grace,

At its meeting under the above number and date, and on the basis of Art. 69 of the Constitution of the Serbian Orthodox Church, the Holy Bishops' Synod decided to call

the Holy Bishops' Assembly for a session on June 4 (May 22) of 1962 at 9 a.m. in the court of the Patriarchate in Belgrade.

Notifying you, brotherly, regarding that decision of the Holy Bishops' Synod, we kindly request of Your Grace to come and attend that session of the Holy Bishops' Assembly.

A list of all matters received for the Holy Bishops' Assembly will be sent to you later.

Your Grace's brother in Christ,

President
of the Holy Bishops' Synod
A.E.M. and Serbian Patriarch
GHERMAN (signed)

To His Grace Bishop of
America and Canada
Lord Dionisije
Libertyville, Ill.

DEFENDANTS' EXHIBIT 143

THE HOLY BISHOPS' SYNOD
of the Serbian Eastern Orthodox Church

Ref. No. 583/Min. 84
March 2, 1962, Belgrade

To: His Grace Bishop for America and Canada
Sir DIONISIJE
Libertyville
U.S.A.

Your Grace,
Dear Brother in Christ,

The Holy Bishop's Synod has made the following decision on the Meeting, as indicated above:

"In reference to the official document of February 13, 1962, No. 115, to ask kindly His Grace Bishop for America and Canada, Sir Dionisije to act in conformity with his canonical obligations and Bishops' oath, and personally to attend the following regular session of the Holy Bishops' Assembly of the Serbian Eastern Orthodox Church whose member he is, since no obstacle exists from any side whatsoever; to inform personally the Holy Bishops' Assembly about the life and problems of his Diocese, but will not conduct any of his conversation through the delegation and the Holy Bishops' Assembly."

With brotherly love, we are notifying your Grace about the above-mentioned solution.

Your Grace's Brother in Christ
Serbian Patriarch
Gherman (signed)

DEFENDANTS' EXHIBIT 145

THE HOLY BISHOPS' SYNOD
of the Serbian Eastern Orthodox Church

Ref.No.1009/Min.154
March 27, 1962, Belgrade

To: His Grace Bishop of America and Canada
Sir DIONISIJE
Libertyville, USA

Your Grace,
Dear Brother in Christ,

The Holy Bishops' Synod on its meeting, ref. to the above no. and date, made the following decision:

"To notify His Grace Bishop Dionisije, Bishop for America and Canada, that the Holy Bishops' Synod is willing to receive a delegation mentioned in the official document

of His Grace, ref.No.117, of March 20, 1962, only in case that it is led by His Grace Bishop, because the problems which should be discussed cannot be solved without the competent Bishop. His Grace stated that he would take care to attend after so many years, this year's meeting of the Holy Bishops' Assembly."

Notifying your Grace about the above decision, with brotherly love,

Your Grace brother in Christ,
for President of the
Holy Bishops' Synod, the member,
Metropolitan of
Zagreb
Damaskin (signed)

DEFENDANTS' EXHIBIT 149

HOLY BISHOPS' SYNOD
OF THE SERBIAN ORTHODOX CHURCH
No. 1725/Min. 237
May 17, 1963
in Belgrade

Your Grace,

The Holy Bishops' Council of the Serbian Orthodox Church on its meeting on May 10, 1963 under ACNo.20 and 21/minutes 77, decided herewith:

"On request of the Church National Assembly and American Canadian Bishop, No. 115 from 13/2 and No. 127 from May 25, 1962, that in regard of greatness and brightness of this Diocese, this church territory needs more bishops; Holy Bishops' Council, in accordance with paragraph 16 of the Constitution of the Serbian Orthodox Church, estab-

lishes from the present American Canadian Diocese three dioceses, and they are:

1. *Mid-West American Diocese* with the see at the St. Sava Monastery, Libertyville, on which remains His Grace Bishop Dionisije,

2. *Western American Diocese* with the see in Los Angeles, and

3. *Mid-East American-Canadian Diocese* with the see in Detroit.

By previous accepted agreement from His Holiness Serbian Patriarch, Sir German, to the *Mid-West American Diocese* South Africa will be added, and to the *Western American Diocese*, parishes in Mid and South America, with whom, according to article 55, paragraph 12 of the Constitution of the Serbian Orthodox Church, administered to the present His Holiness Serbian Patriarch.

The frontier between Mid-West American and Western American dioceses will be parallel with the 95th meridian.

To the Mid-East American-Canadian Diocese will belong parishes in the states: Michigan, New York, Pennsylvania and Canada.

Insofar the Bishops for the new created diocese are appointed the diocesan bodies and organs will be established.

The final aroundation [sic] of the new formed diocese, and accustom it to the there existed Church Constitution to the new creations of these dioceses will be studied with the diocesan bishops in cooperation with the Church National Assembly and their proposals shall be handed over to the Holy Bishops' Council for final decision."

In sense of the decision of the Holy Bishops' Synod according to the above-named number and date, you are informed herewith.

For The President
of The Holy Bishops' Synod, member
Bishop of Sumadia
VALERIAN.

TO HIS GRACE BISHOP OF MID-WESTERN
AMERICAN DIOCESE
LORD DIONISIJE
LIBERTYVILLE.

DEFENDANT'S EXHIBIT 150

SERBIAN ORTHODOX DIOCESE
IN THE UNITED STATES OF AMERICA
AND CANADA
THE SERBIAN ORTHODOX MONASTERY
OF ST. SAVA
LIBERTYVILLE, ILLINOIS 60048
U.S.A.

D/Min. No. 196
July 11, 1963

Your Holiness:

I am submitting herewith a complaint against the Investigating Commission whose arrival was notified to me by the letter of the Holy Bishops' Synod, No. 1986/Min.265 of June 13, 1963, who, disrespecting authorities and instructions in regard to the above mentioned letter "to carry out the procedure, inquire statements and interrogate the person concerned and witnesses, as to assemble evidences of the present position of facts and all together submit to the Holy Bishop's Synod for further actions."

Their Graces, Bishops, Chrisostom and Visarion informed me in their letter of June 30 about their arrival. But, in fact, they arrived on June 28 and demanded to be received in St. Sava Monastery on July 5. Being duly informed about the arrival of the said Commission, I edited by announcement, which I am enclosing herewith, demanding in accordance to the Article 67 of the Disciplinary Regulations, that all private accusations had to be handed over to me in transcripts, to enable me to reply in writing. The Commission did not do it.

Having brotherly respect to the brother bishops, I decided to receive them, but not in the Monastery of St. Sava, because it was impossible for me to do it, but in some other place, in a restaurant, intending to have lunch with them.

I pointed out that His Majesty King Peter of Yugoslavia was our guest a day before and I could not receive the Commission in the Monastery.

I handed to the Commission a letter whose copy I am enclosing also, stating that I am not willing to be orally examined, because I must know who is accusing me and for what! Your Commission refused to do so and is hiding the accusers and the accusing materials. On behalf of the Commission, the conversation was carried out by His Grace Bishop Visarion. At the beginning of the meeting, Bishop Chrisostom commenced to write down the minutes but I objected to this, insisting that all accusing material should be given to me in writing prior and I declined any oral statement and my signature on it. The only thing I said on this occasion was: that I stand by my statement and declaration relative to the decision of the Holy Bishops' Assembly and Synod. I consider it as my duty as part of my defense and no one has the right to deny it to me.

Instead of handing over to me the transcription of the accusing material, the Commission interrupted the investigation and the Bishop Visarion declared that there is nothing further to investigate because the defendant recognized all the declarations as such and this is sufficient for the solution of this court procedings. When I asked him what further steps will be, he replied: "The Holy Bishops' Synod will appoint a bishop as a church-judiciary plaintiff who will prepare the indictment and send it to you for reply".

Later the Investigation Commission departed for Milwaukee and on the second day, July 6, publicly announced a statement in which they perverted the facts, stating: Bishop Dionisije trampled upon his episcopal oath and that he had denounced his obedience to the higher Church authorities and apart from that he offended articles 10, 15

and 17 of the Regulation of the Court Manual of the Serbian Orthodox Church, which demands the highest penalty by the Church, as: defrocking, losing episcopal rank and excommunication. Therefore, they appealed to all Church-school congregations and clergy, to all the sons and daughters of the Orthodox dioceses; Mid-American, East-American, Canadian and West American to renounce any obedience to Bishop Dionisije, but to obey orders given by the administrators, archimandrite Firmilijan, Udicki and protosingelos Lastavica who will carry out all duties in accordance and in conformity with the existing church regulations and canons.

Your Investigation Commission mentioned in its appeal that a report and request was sent to the Holy Bishops' Synod. It was also mentioned that the Commission came by invitation of the Diocesan Plenum but then ignored the Plenum's decision. Real intention was to reinforce and impose your three appointed administrators for the three newly named dioceses. Your administrators are issuing orders to boycott the Church National Assembly, that church congregations should refuse to send delegates to it, threatening that all clergy who disobey their orders will be defrocked! Is this the way which contributes to the peace of this Diocese? Is this the manner by which should be imposed the new Bishops to the people? We already know—what is imposed upon our Church in Yugoslavia by the regime over there. You are sinning before God, Your Holiness!

The said Investigation Commission imposed upon me a penalty in advance, threatens me with episcopal discharge and excommunication! Did I deserve this from my Mother Church after serving her for 37 years as a priest and Bishop? And, what will be achieved herewith? A larger revolt against our Patriarchate and your Holiness! Here we

already have congregations which throw out their priests and more than a half of the congregations ask for separation from the Patriarchate. I cannot reinstate peace, nor prevent the circumstances. So, your Holiness, together with this Commission, will be responsible for everything that may happen if this Commission is not revoked as well as all decisions of the Holy Bishops' Assembly and Synod.

Because the Investigation Commission publicly announced its statements, in the same manner I am announcing this letter addressed to your Holiness.

I declare herewith that no one ever could excommunicate me from the Community of the Christ Church and no one can separate me from Christ the Saviour and the Holy Serbian Orthodox Church of which your Holiness is momentarily the head. The time will come and I trust my hope to the God, that all these acts will be paid to you, if accepted, along with the Holy Bishops' Assembly, Synod and to Investigation Commission by the justice of God.

A copy of this letter was sent to the Investigation Commission and to all clergy of the Serbian Orthodox Diocese of America and Canada and to all our people.

TO: THE HOLY BISHOPS'
SYNOD OF THE SERBIAN
ORTHODOX CHURCH,
BELGRADE, YUGOSLAVIA

Your Holiness Brother in Christ,
Bishop Dionisije
Bishop of the Serbian Orthodox
Diocese of United States of
America and Canada

DEFENDANT'S EXHIBIT 151

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA, SERBIAN MONASTERY OF ST. SAVA, LIBERTYVILLE, ILL.

D. Prot. No.-196
July 13, 1963

TO THEIR GRACES
BISHOP OF BRANICHEVO CHRISOSTOMOS
BISHOP OF BANAT VISARION
YOUR GRACES:

The official document of the Holy Bishop's Synod, ref. no. 1986/min.265 of June 13, 1963, informing us about your coming to America, reads, among other things as follows: that ordered Bishops "leave for the U.S.A. to examine the matter and perform the necessary interrogations of the accused and the witnesses in conformity with the paragraphs 67 and 90 of the Rules and Procedures for Christ Courts; also to collect proofs about the situation and to give a report—with all adequate documents—to the Holy Bishop's Synod for the purpose of further procedure.

In paragraph 67 of the Procedures, it says: *"In case such a complaint exists, the accused may be given a copy of a written complaint or private complaint so that the accused himself writes his explanation and questioning."* Your Graces are taking for beginning only my questioning-interrogation in your minutes, which I refused to sign asking a written accusations-complaints, and reports against me. Then you issued the very following day your DECLARATION in which—as if the procedure and all the legal steps are finalized, *you immediately expressed punishment over me.* Accordingly, Your Graces intentionally avoided

presenting to me charges, accusations and reports for my written reply. By that, you deny the basic rights of every human being, and of mine as well, neither giving me time or possibility for a reply and to know who my accusers are nor of what I am accused for. That is why, not avoiding interrogations and responsibilities, I categorically demand on the basis of paragraph 67 of the Rules and Procedures for Church Courts—to present to me all reports or private complaints in copies. After that, it should follow the hearing of the witnesses in my presence.

I did not believe you would do such a big injustice, which you did against me, and that you would let me have the above mentioned material during our first meeting. Your Grace did not do that because, it seems, that the sentence has already been brought in Belgrade, in the Commission for Religious Affairs, and everything had to be done quicker as possible!!! In this country of order and law, unlike as in Yugoslavia today, such a procedure is considered illegal. Accordingly, I demand you to do it in conformity with the Paragraph 67, last item, as cited in the official document of the Holy Bishop's Synod. In case your Graces do not do so, I shall use my rights of American Citizen, to protect myself from such an Investigating Commission.

Anticipating your further legal procedure—since this first one was completely illegal—your Graces brother in Christ

American-Canadian Bishop
Dionisije

DEFENDANT'S EXHIBIT 152

I certify herewith that the following (6) six pages are true and correct copies of the Report of the Investigating Committee dated July 20, 1963, and that these copies were made under my supervision and guidance.

The original Report is presently in the archives of the Holy Episcopal Synod and under my control.

Belgrade, April 15, 1970

Secretary General
Holy Episcopal Synod
Rev. Mladen Mladenovic
(Round Seal)

• • •

TO HOLY EPISCOPAL SYNOD
OF THE SERBIAN ORTHODOX CHURCH
BELGRADE

Concerning the decision of the Holy Episcopal Synod, No. 1986/Min. 265 of June 13, 1963, we are privileged to submit the following report to the Holy Episcopal Synod for further appropriate procedure:

In the process of carrying out the above decision of the Holy Episcopal Synod, we have immediately after our arrival in the U.S. notified His Grace Bishop Dionisije from Pittsburgh on June 30, 1963, that we plan to pay him an official visit on Friday, July 5, 1963, in his residence in Libertyville. (Exhibit No. 1)

On Friday, July 5, 1963, we arrived to Libertyville at eleven o'clock. His Grace Bishop Dionisije refused to receive us in his Episcopal Residence and suggested that we go instead to a nearby resort "Indian Club". Although surprised by such reception, we agreed to go over to the mentioned resort. There, His Grace Bishop Dionisije gave us a letter in which he explained why he could not receive us in his residence—due to numerous protests from the

faithful concerning our visit to the U.S. This letter we had already given to the Holy Episcopal Synod. (Later, Bishop Dionisije wrote to us that he could not receive us in the Monastery, because only a day before King Peter II had been there!)

After we had read the letter, we asked Bishop Dionisije if he was ready for the interrogation. He refused to cooperate in this, stating that he will not answer any oral questions. He demanded to get all the evidence against him, and that all questions be in writing, so he could also answer in writing.

Having reached a conclusion that His Grace Bishop Dionisije is not willing to participate in the preliminary interrogation, as it is established by the judicial custom, we prepared minutes about this. Although His Grace Bishop Dionisije helped with the minutes, he refused to sign it. (Exhibit 2). We parted from His Grace Bishop Dionisije, but only after having informed him that the Holy Episcopal Synod will appoint a bishop as court prosecutor, who will prepare the indictment against him based on available evidence, which will be sent to him for an answer.

Tomorrow, on July 6, 1963, we wrote a report in Milwaukee about this unsuccessful meeting, and about statements by His Grace Bishop Dionisije at the meeting, that he stands behind his reports and statements before and after the decisions of the Council and the Synod, and that he does not respect these decisions. In doing so he has committed new offenses, in addition to the old ones, which call for the highest eclectical punishment. Therefore, we have asked the clergy, the parishes and all the faithful not to follow Bishop Dionisije, but the administrators appointed by the Holy Episcopal Synod. (Exhibit 3).

Submitting the previous as well as new evidence against Bishop Dionisije to the Holy Episcopal Synod, we ask that

one of the bishops is designated as court prosecutor, who will use the enclosed evidence in order to prepare the indictment, which will be sent to Bishop Dionisije for an answer.

In order to restore as soon as possible canonical order and rightful and healthy religious life in this section of our Church, we pray that our suggestion is reviewed urgently. (Attached whole case).

Faithful to the Holy Episcopal Synod

July 20, 1963

Bishop of Branicevo Hrizostom

+ Bishop of Banat Visarion

• • •

Your Grace,

By decision of H. E. Synod No. 1986/Min. 265 of June 13, 1963, we are authorized in accordance with Par. 67 and 90 Regulations for Church Courts S.P.U., and in connection with the decision of H. E. Synod No. 1664/Min. 188 of May 10, this year, which initiated canonical procedure against Your Grace, to investigate this case and have hearing with Your Grace.

Carrying out this decision of the H. E. Synod, we are informing Your

To His Grace Bishop of West-America Dionisije, Libertyville made according to the decision of the Holy Episcopal

MINUTES

Synod, No. 1986—Min. 265 of June 13, this year, in a resort near Libertyville, on July 5, 1963.

H. G. Bishop Dionisije was asked to accept the implementation of the above decision and to give answer to each question. H. Grace retorted that he will not answer any oral questions, but he wishes that all the questions are in writing so he could answer in writing.

H. Grace has stated at the same time that he did not accept the decision about the partition of the Diocese into three parts, and that he did not consider himself a bishop of Mid-Western Diocese.

DEFENDANT'S EXHIBIT 193

I hereby certify that the following (6) six pages are exact and correct photostatic copies taken (filmed) under my supervision and instruction, from the original minutes of the Holy Council of Bishops of May 11 (April 28) 1963. The original minutes is kept in the archives of the Holy Synod of Bishops under my control.

April 15, 1970
Belgrade

Supreme Secretary
Holy Synod of Bishops
Mladen Mladenovic, signed
Archpriest
(Seal of Holy Synod)

—111—

MINUTES

15

of the meeting of the regular session of the Holy Council of Bishops held on May 11 (April 28) 1963 in the place of the Patriarchate in Belgrade, under the presidency of His Holiness Serbian Patriarch Sir Gherman.

At the meeting were present all the Diocesan Bishops, except Metropolitan of Budim Sir Arseny and His Grace Bishop of the American-Canadian Diocese Sir Dionisije.

The minutes of today's meeting was taken by His Grace Bishop of Dalmatia Sir Stefan.

78

After the prayer was sung "Christ is Risen" His Holiness opened the meeting at 9 o'clock a.m.

At the request of the president, the secretary of the Holy Council of Bishops His Grace Bishop of Shabatz-Valjevo Sir John read the minutes of the 14th meeting of the regular session of the Holy Council of Bishops.

During the reading of minutes some remarks were added on the same.

After the enforcement of the remarks the minutes were corrected and read anew, accepted and signed.

79

His Holiness the Patriarch opened today's meeting at 9:00 o'clock a.m. and called the Diocesan Bishops to go in the Patriarchal chapel, were the service of invoking the Holy Spirit will be held.

The service of invoking the Holy Spirit was performed by His Grace Bishop of Slavonia Sir Emilijan.

After the completion of the Holy Service the Bishops proceeded to the Council's hall.

His Holiness the Patriarch proposes the agenda today's meeting: Filling of the newly created Dioceses in the United States of America.

112

80

HA No. 36

Before proceeding with the agenda His Holiness the Patriarch expressed a desire that the question of election of the bishops for the American-Canadian diocese be given the greatest possible consideration and to find a common language in order to find the most satisfactory solution for all.

Then proceeded with the agenda.

The floor was given to His Grace Metropolitan of Zagreb, Damaskin who in his speech expressed that the problem of our Church in the United States is very complicated and difficult. After all that has been done with regard to the administrative division of the American-Canadian Diocese, it is necessary to elect 3 bishops. He thinks that among the candidates about whom discussion was held, the most suitable would be Archimandrite Firmilian (Ocokoljich) after taking into consideration his authority and respect in the United States.

The floor was given to His Grace Bishop of Backa, Sir Nikanor, who said that he is in complete agreement with

the opinion of His Grace Metropolitan Damaskin. He brought out his discussion with Archimandrite Gregory (Udicki) whom he asked whether he would accept if he were elected bishop. He answered, "I would accept to be vicar if Archimandrite Firmilian would be elected as diocesan bishop".

His Grace Metropolitan of Montenegro-Coastal Area, Sir Danilo said he is satisfied with the declaration of His Grace Metropolitan Damaskin and is of the opinion that 3 bishops for the dioceses in the United States should be elected.

The floor is given to His Grace Bishop of Zahum, Hercegovina Vladislav, and in a long speech he expressed his opinion that it would be best that the two newly created dioceses should be filled and that the diocese on which His Grace Bishop Dionsije remained be given for administration to one of the newly elected bishops. Finally, he made a motion to elect two bishops for the newly created diocese and that for the administration of the diocese on which Bishop Dionisije remained Archimandrite Firmilian to be appointed.

In the further discussion with this question the following participated: His Grace Bishop of Timok Sir Emilijan, His Grace Bishop of Nish Sir Jovan, and Metropolitan of Dabro-Bosnia Sir Nektarije.

Thereafter the secretary of the Holy Council of Bishops His Grace Bishop of Sabac-Valjevo Sir Jovan read the letter of Metropolitan of Budim Sir Arsenije sent to the Holy Council of Bishops, in which he states that during the election of a Bishop he is entrusting his vote to His Holiness Serbian Patriarch Sir Gherman, which the Holy Council of Bishops acknowledges.

After this His Holiness Patriarch suggests the following: Because the Holy Council of Bishops had divided into three parts the Diocese of America and Canada, and because the Holy Synod of Bishops placed His Grace Bishop Dionisije under a suspension of performing his priestly

services, the Holy Council of Bishops should now immediately elect:

For the Bishop of the newly created Mid-Eastern American & Canadian Diocese, Very Rev. Stefan Lastavica,

For Vicar Bishops: to administrate the Mid-Western Diocese, archimandrite Firmilian Ocokoljich, and to administrate the Western American Diocese, archimandrite Gergory Udicki.

The voting "for" or "against" this proposal then took place.

Upon the executed secret ballot His Holiness Patriarch announces, that for proposal "for" 10 votes were cast "against" 7 votes, 3 blank ballots and 2 abstained from voting.

After the voting was established that the Metropolitan of Dabro Bosnia Sir Nektarije used the ballot he received from His Grace Bishop Dionisije, and because he was suspended from performing his priestly services, he really did not have right to vote, therefore this voting was announced as being null and void, so they held a new vote.

Upon the execution of the second secret balloting, His Holiness Patriarch announces the result: for proposal "for" voted 10, "against" voted 6, there were 4 blank ballots and 1 abstained from voting.

Because no final decision was reached by the second voting, His Holiness Patriarch suggests that Bishop of the Mid-Eastern American and Canadian Diocese, Very Rev. Stevan Lastavica be elected.

After the execution of the secret ballot His Holiness Patriarch announces the result of the voting: "for" the election of Very Rev. Stefan Lastavica voted 17, "against" 1 vote, 1 blank ballot and 2 abstained from voting.

His Grace Bishop of Zahum-Hercegovina Sir Vladislav, and Bishop of Raska-Prizren Sir Pavle declared that they abstained from voting because they considered this method of electing a Bishop is contradictory with the rules of the

Constitution of the Serbian Orthodox Church (article 69, section 18, and article 103).

His Holiness Serbian Patriarch Sir Gherman announces that for the Bishop of the Mid-Eastern American and Canadian Diocese Very Rev. Stefan Lastavica, parish priest of the Serbian Orthodox parish in Windsor, Ontario, Canada was elected.

81

40 no. 37

His Holiness Sir Gherman informed all the present, that in connection with the article 53 of the Constitution of the Serbian Orthodox Church, the term of two years in the Holy Synod of Bishops expired to the following members: Metropolitan of Zagreb Sir Damaskin, and His Grace Bishop of Branicevo Sir Hrizostom and asked the Holy Council of Bishops to elect two new members to the Holy Synod of Bishops.

The Patriarch nominates the following: His Grace Bishop of Timok Sir Emilijan and His Grace Bishop of Raska-Prizren Sir Pavle.

Because the Holy Council of Bishops accepted the nomination with acclamation, therefore

His Holiness Serbian Patriarch Sir Gherman announces that on the basis of article 58 of the Constitution of Serbian Orthodox Church for the members of the Holy Synod of Bishops were elected:

His Grace Bishop of Timok
Sir Emilijan
and, His Grace Bishop of
Raska-Prizren
Sir Pavle.

His Holiness Serbian Patriarch Sir Gherman stated the daily agenda has been terminated and the work of this year's session of the Holy Council of Bishops is ended. He

expresses gratitude to all Metropolitans and Bishops, members of the Holy Council of Bishops, for their co-operation. He also expressed his belief that through the work of the Holy Council of Bishops the Holy Spirit acted, to Whom he is thankful for help.

After they sung "Praise to Thee O Lord", His Holiness Serbian Patriarch Sir Gherman concluded the regular session of the Holy Council of Bishops at 11:30 and called all the members of the Holy Council of Bishops to come to the Patriarchal chapel where a memorial service was held for deceased Bishops and benefactors of the Serbian orthodox Church.

President of
the Holy Council of Bishops
+ Serbian Patriarch

Members:

Metropolitan of Zagreb, Damaskin, signed
Metropolitan of Dabro-Bosnia, Nektarije, signed
Metropolitan of Montenegro & the Coastal Area, Danilo, signed
Bishop of Timk, Emilijan
Bishop of Nis, Jovan
Bishop of Sumadija,
Bishop of Srem, Makarije
Bishop of Backa, Nikanor
Bishop of Zica,
Bishop of Branicevo, Hrizostom
Bishop of Banat, Visarion
Bishop of Slavonia,
Bishop of Zvornik-Tuzla, Longin
Bishop of Gornjikarlovac,
Bishop of Zahum Hrcegovina,
Bishop of Raska-Prizren,
Bishop of Banjaluka,
Bishop of Dalmatia,
Bishop of Sabatz-Valjevo,

DEFENDANT'S EXHIBIT 194

I hereby certify that the following (6) six pages are authentic and correct photostatic copies of the minutes of the Holy Synod of Bishops of May 17, 1963, taken under my supervision and instruction.

The original minutes are kept in the archives of the Holy Synod of Bishops under my control.

Head Secretary
Holy Synod of Bishops
Mladen Mladenovic, signed
archpriest
(Round Seal)

April 15, 1970
Belgrade

MINUTES

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of the meeting of the Holy Synod of Bishops of May 17, 1963 in Belgrade.

Present:

President
Holy Synod of Bishops
AEM and Serbian Patriarch
Sir Gherman

Members:

Bishop of Timok Sir Emilijan
Bishop of Sumadija Sir Valerijan
Bishop of Zahum-Hercegovina Sir Vladislav
Bishop of Raska-Prizren Sir Pavle
Head secretary of the Holy Synod of Bishops
Mr. Mladen Mladenovic, archpriest

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After they sang the prayer "Christ is Risen" His Holiness Serbian Patriarch Sir Gherman opens the meeting.

Very Rev. Mladen Mladenovic, head secretary reads the minutes 18 of the meeting of the Holy Synod of Bishops.

After the reading of the minutes the Holy Synod of Bishops resolves:

The minutes are accepted without any remarks and is signed.

237

1725

The Holy Council of Bishops of the Serbian Orthodox Church informs that under AS no. 20 and 21 / minutes 77 of May 10th, 1963 upon the hearing of the report of the Metropolitan of Zagreb Sir Damaskin and His Grace Bishop of Backa Sir Nikanor of January 24th of this year of their official visit as delegates of the Holy Council of Bishops and Synod they made to the Serbian Orthodox Diocese of America and Canada from September 13th to November 28, 1962, and also the report of His Grace Bishop of American and Canadian Diocese Sir Dionisije number 164 of January 5 of this year, and upon the examination of all attached reports which pertain to the situation of the American and Canadian Diocese and in the case of His Grace Bishop of the American-Canadian Diocese Sir Dionisije, has brought this decision:

"At the request of the Church-lay Council of the American-Canadian Diocese and of the Bishop of American Canadian Diocese number 115 of February 13, 1962 and number 127 of May 25th, 1962 that because of the large territory of this Diocese, it is necessary to choose more Bishops, Holy Council of Bishops on the basis of article 16 of the Constitution of the Serbian Orthodox Church creates from the present American-Canadian Diocese three Dioceses, and they are:

1. Middle-Western American Diocese with its seat at the monastery of St. Sava in Libertyville, on which further remains His Grace Bishop Dionisije,

2. Western-American Diocese, with its seat in Los Angeles, and

3. Middle-Eastern American-Canadian Diocese, with its seat in Detroit.

With the preceeding consent of His Holiness Serbian Patriarch Gherman, to the Middle-Western American Diocese is added the territory of South Africa, and to the Western-American Diocese are added all parishes in Central and South America, with which until now are governed directly by His Holiness Serbian Patriarch Sir Gherman, according to the article 55, section 12 of the Constitution of the Serbian Orthodox Church.

The border between the Middle-Western American Diocese will run for now along the 95th Meridian.

To the Middle-Eastern American-Canadian Diocese will belog parishes in the following states: Michigan, New York, Pennsylvania and Canada.

As soon as the new Bishops are appointed to their newly created Dioceses, right a way there will be established all necessary Diocesan bodies and organs.

The final bordering of the newly created Dioceses, making their Church constitution according to the newly created situation, and all other questions pertaining to the Church organization will be examined by the competent Bishops, Church-lay Council, and all their proposals to submit for final decision to the Holy Council of Bishops."

After the examination of this the Holy Synod of Bishops resolves:

The decision of the Holy Council of Bishops AS number 20 and 21 / min. 77 of 1963 in regard of creating from the present American-Canadian Diocese, three Dioceses, to take all that in mind and to inform the following:

His Grace Bishop Dionisije Ecclesiastical court, Diocesan Council, and the Church-lay Council (Sabor) in Libertyville, administrator of the Western American Diocese,

the administrator of the Middle-Eastern American-Canadian Diocese, and the Religious Commission of the Federal Executive Council.

At the same time to send an epistle to the faithfuls of the Serbian Orthodox Church in the United States of America and to explain the reasons for bringing about the above decisions of the Holy Council of Bishops and they were called upon to respect all the decisions of the Holy Council of Bishops with full trust.

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1726

Executing the decisions of the Holy Council of Bishops AS number 20 and 21 / minutes 77, of May 10, 1963 of creating new Dioceses in the United States of America, and the decisions of the Holy Synod of Bishops, Synod number 1664 / minutes 188 of May 10, 1963 of taking action to dissolve His Grace Bishop Dionisije from his priestly services and to discharge him from governing the Diocese, the Holy Synod of Bishops on the basis of article 70, section 21 of the Constitution of the Serbian Orthodox Church and article 13 of the Constitution of the Serbian Orthodox Diocese of the United States of America and Canada, appoints the following for temporary adminstrators:

1. For the Middle-Western American Diocese archimandrite Dr. Firmilijan Ocokoljich, parish priest of the Serbian Orthodox Church in Pittsburgh;;

2. For the Western American Diocese, archimandrite Gregory Udicki, parish priest of the Serbian Orthodox Church in Youngwood;

3. For the Middle-Eastern American-Canadian Diocese, Very Rev. Stevan Lastavica, newly elected Bishop for the Middle-Eastern American-Canadian Diocese.

His Grace Bishop of Raska—Prizren Sir Pavle did not agree with this decision and in regard of the same he is giving his separate opinion as follows:

"I do not agree that the administration of the two newly created Dioceses in America be given to the candidates whose election for Bishops did not pass at the meeting of the Holy Council of Bishops. The reasons for that are the same which I already stated them at the meeting of the Holy Council of Bishops and I consider that such procedure would be in contradiction with the position of the Holy Council of Bishops towards them. I think that the administration of these two Dioceses should be entrusted to one Bishop from here, and the persons in question can only be his assistants. I think that this is the way that the Constitution of the Serbian Orthodox Church prescribes (commands)."

Of this decision to inform His Grace Bishop Dionisije, the administrators, Ecclesiastical Court, Diocesan council, Church-lay Council (Sabor) in Libertyville, and the Federal Religious commission.

239

1657

Holy Council of Bishops of the Serbian Orthodox Church reports that under AS number 36 / minutes 80 has elected Very Rev. Stevan Lastavica, parish priest of the Serbian Orthodox Church in Windsor (Canada) for Bishop of the Middle-Eastern American and Canadian Diocese.

After the examination of this the Holy Synod of Bishops resolves:

The decision of the Holy Council of Bishops AS number 36 / minutes 80 of May 11, 1963 of election of Very Rev. Stevan Lastavica, parish priest of the Serbian Orthodox Church in Windsor (Canada) for Bishop of the Middle-

Eastern American-Canadian Diocese, to submit to His Holiness Serbian Patriarch Sir Gherman, with request to carry out this decision in accordance of article 55, section 4 of the Constitution of the Serbian Orthodox Church.

At the same time to inform His Grace Bishop Dionisije of this election.

President
Holy Synod of Bishops
AEM and Serbian Patriarch
German, signed

Members:
Bishop of Timok, Emilijan, signed
Bishop of Sumadija, no signature
Bishop of Zahum-Hercegovina, Vladislav, signed
Bishop of Raska-Prizren, Pavle, signed

Head secretary,
archpriest
M. Mladenovich, signed.

DEFENDANT'S EXHIBIT 198

Minutes of the meeting held in St. Sava Church, Pittsburg, Pa., June 10, 1963. The attending people decided to send the Minutes to the Holy Synod.

The Holy Synod of
the Serbian Orthodox Church
Belgrade, Yugoslavia

After receiving the decisions of the Holy Assembly of Bishops and Synod of May 10 of this year, we undersigned administrators of the newly formed dioceses in America and Canada started to carry out the same. It is unnecessary to emphasize various difficulties which we have encountered at the very beginning; the greatest of them was the rejection of Bishop Dionisije to honor these decisions.

From our part, in full cooperation and determination to establish peace and order in this part of our Church, we informed all clergymen, church-school congregations and faithfuls about all of the most important parts from these far-reaching decisions of the Holy Assembly of Bishops and Synod. We obtained full cooperation and understanding of the members of the Priest Association of the American-Canadian Diocese.

The Holy Synod Epistle, with a small exception, was read in all churches after the holy liturgy on May 26, 1963. The Epistle was accepted with pleasure and approval by the majority of the faithfuls. More information about the disapproval by Bishops Dionisije and a few priests will be mailed to the Holy Synod under a separate cover. Objection was raised because, beside priests and church-school congregations, the Epistle was directly mailed to a number of individuals.

On June 4, 1963, the three administrators and the executive Board of the Priest Association with some neighboring priests met on the land of the future monastery "Blessed Virgin Mary" (Presveta Bogorodica) in Shadeland, Pa. to discuss and plan our mutual future actions. Bishop Dionisije has forbidden us to enter any of the buildings on the land. Owing to nice weather, the meeting was held outside. On Monday, June 3, the three administrators received a letter from Bishop Dionisije, addressed to arhimandrite Firmilijan and dated May 30, 1963. In this letter he states:

Quote (handwritten, noting quoted)

Prior to this letter, Bishop Dionisije has expressed his willingness to retire, provided the trial against him be stopped and prohibition of church services be removed; this oral statement he revoked as he did with many others before. This statement abou . retirement, which appeared

to be as a sort of cooperation, was given to priests M. Brvich, J. Marcetich, Velimir Kovacevich, Nikola Stepanovich, diocesan legal counselor, and Dr. Uros Seferovich.

On May 25, 1963, Bishop Dionisije, shocking the clergy and Serbs in general, mailed a schismatic message to all Serbs of America and Canada accusing all Bishops and practically refused subordination by the Holy Assembly of Bishops and Synod. This message of Bishops Dionisije was mailed to you.

On Memorial Day, May 30, when memorial services are held at the St. Sava monastery and when several thousands Serbs from America and Canada are gathered there, Bishop Dionisije attacked the Holy Assembly of Bishops and Synod with insulting words calling Serbian Bishops stoopes of the communist regime.

The Priest Association Executive Board and the three administrators held their meetings on Shadeland separately. Afterwards, they got together and discussed the conditions created in the American Canadian Diocese. From this meeting in Shadeland, we issued our first written message to the clergy, church-school congregations and all Serbian people in America and Canada telling them about the new changes in the Diocese; a copy of this message is enclosed.

The Priest Association Board also discussed the problems of our Diocese and sent their message to the Serbian people in America and Canada; this message is also enclosed. The message of the undersigned administrators contained excerpts from the Minutes of the first meeting of the newly appointed administrators. In full cooperation, we decided to discuss all important questions at our meetings and keep separate Minutes with conclusions of any subject discussed.

Four members of the Diocesan Council, three of which are civilians (Nikola Stepanovich) and one priest (arhimandrite Dimitrije Balach) have called the Diocesan Council meeting for June 6, 1963; they did it without consultation and cooperation of us, newly appointed administrators. After mailing invitations to the members of the Council, Mr. N. Stepanovich told the administrator, arhimandrite Firmilijan, by telephone that Bishop Dionisije will not attend the meeting, requested him to attend the meeting, and assured him that the Council will try to influence Bishop Dionisije to honor the decisions of the Holy Assembly of Bishops and Synod.

At our meeting in Shadeland, we have decided that, under the above conditions, arhimandrite Firmilijan once more tries to take over the administration of the Diocese and the property in Libertyville.

On June 6, the Diocesan Council convined at the St. Save monastery; almost all members were present. The meeting was presided by vice-president Dr. Unos Seferovich. Although it was promised that Bishop Dionisije will not attend the meeting, he was present. In the very beginning of the meeting, arhimandrite Firmilijan insisted that the administration of the Diocese and property be handed over to him in accordance with the decisions of the Holy Assembly of Bishops. Bishop Dionisije categorically refused this with motivation, that the decision of the Holy Assembly of Bishops was made under the influence of the communist regime, and it is uncanonical and illegal. The first and most important point on the agenda was the division of the present Diocese on three new dioceses. Discussion on this point lasted several hours. It was obvious that the majority believed that the decision of the Holy Assembly of Bishops to create new dioceses was made without prior consultation of the diocesan governing bodies and

was against the Constitution of the American-Canadian Diocese, which can only be changed by the church-people assembly of the Diocese. Based on the majority's opinion and on motion of Mr. Todor Polich, it was decided, since this Council is without authority to solve this question, to submit it to the regular church-people assembly, already called for October. Since this subject required a fast solution, motion was made to call the church-people assembly for August 6, 7, and 8 instead of October. The majority was for this motion. The newly appointed administrator, arhimandrite Firmilijan, three priests, and a few laymen abstained. In accordance with this decision, the presiding officer said that, naturally, the decisions of the Holy Assembly of Bishops and Synod concerning the appointment of the administrators of the non-existing dioceses as well as the prohibition to Bishop Dionisije to administer church services and head the existing Diocese are made by the church-people assembly.

The second question dealing with wrong-doings of Bishop Dionisije, temporary prohibition to administer church services and to head the Diocese, was then discussed. The majority of the Council, following the first decision and expalanation of the legal counselor, Mr. Stepanivich, voted to mail a letter to the Holy Synod requesting a special commission to be sent over here as soon as possible, to bring all proving material, to review the whole subject, and make a final decision; all this, if possible, should be done prior to the meeting of the church-people assembly. We live to mention that, in this question, all the members agreed, if the Bishop's wrong-doings are proved, decisions of the competent Church authorities will be unconditionally accepted. The hardship of this question was Bishop's statements, oral and in writing, that everything against him is coming neither from his wrong-doings nor from wishes of the Holy Assembly of Bishops, but under the pressure of

communist regime in Yugoslavia, which, "from a long time ago, is seeking his removal due to his well-known patriotic and anti-communistic actions in America." His writings contributed much in increasing doubt about the truth of his wrong-doings by many organizations, especially political ones, as well as by some individuals. With passing time, this doubt was increasing more and more among the people causing quarrels, debates, and a situation which may produce division and schism. We consider appropriate to let the Holy Synod know that the appointment of an administrator for the Midwest Diocese, in addition to the aforementioned situation, produced also a doubt that the administrator's role follows "an in advance prepared plan," namely, to take over the administration of the Diocese until another bishop from Yugoslavia is appointed for this Diocese. This opinion was supported even by those who were willing to accept the decisions of the Holy Assembly of Bishops, provided they were sure they were not made according to an "in advance prepared plan." Among these was the legal counselor of our Diocese, Mr. N. Stepanovich. The general opinion of the majority attending the meeting, as well as in all congregations of the American-Canadian Diocese is, that the decisions to create new dioceses were made in a hurry and without consultation of Diocesan governing bodies and church-people assembly. Although suggestions about this question were discussed at our past church-people assemblies and at meetings of the other church governing bodies and the Bishop mailed some requests to you in this connection, it was not discussed in the church-school congregations and other organizations, which here in America, willy-nilly, have influence on our church life. To this, a feeling, that is jealously honored among the Serbs in America, must be added, namely, that there is a Diocesan constitution approved by the Holy Assembly of Bishops, which gives us right to participate in this question and the opinion and

cooperation of the people to be heard and obtained, that is to say, of the church self-governing Diocesan bodies. Such a feeling led, as above mentioned and according to the explanation of the legal counselor, to an opinion of almost all of the members of the Diocesan Council that your decisions were made against the Constitution of our Diocese and, therefore, cannot be accepted.

To support the above opinion, Bishop Dionisije read excerpts from letters Nos. 115 of 2/13/62 and 127 of 5/25/62, which mentioned in the decision of the Holy Synod of 5/17/63 dealing with the creation of the new dioceses; he has succeeded to show that the statements of the Holy Synod were false and that no one, himself or church-people assembly, has asked for any division or creation of new dioceses. In order to prove to our people that there were talks and conclusions about creation of new dioceses and to show them that your decisions were made according to these requests, as well as to advance our church life in America and Canada, we think that the letters bearing the aforementioned numbers be photographed and mailed to us for use.

Whereas the monastery of St. Sava in Libertyville is the residence and the administrative center of the American-Canadian Diocese, we consider that taking over the administration of this part of the newly formed Midwestern Diocese is the main solution to carry out all decisions of the Holy Assembly of Bishops and Synod. The definite rejection of Bishop Dionisije to carry out the decisions of the Holy Assembly of Bishops and hand over the organization of the Diocese to the appointed administrator, arhimandrite Firmilijan, makes the problem more difficult and prevents the other two administrators in the other two newly formed dioceses, which up to now did not have either residence or administrative center, from starting

administration and normal leading of the spiritual and administrative life in the dioceses. Solution of the first main question would, naturally, regulate life in the other two dioceses by mutual meetings and cooperation of all three administrators in the existing center, monastery St. Sava in Libertyville.

The above mentioned decisions were made by the Diocesan Council on the meeting of June 6; this meeting was called by the vice-presidents, Nikola Stepanovich, Dr. U. Seferovich, and Svetozar Maravich and adhimandrite D. Baluch, Diocesan secretary, and "by approval of Bishop Dionisije," as pointed out in the letter. At our meeting in Shadeland on June 4, all three of us agreed that this call for meeting is illegal and against the Constitution. In order to carry out the order of the Holy Assembly of Bishops and Synod, we have decided to send arhimandrite Firmilijan to attend the meeting and read again the decisions of the Holy Assembly of Bishops appealing to the Council members to help him to take over the administration of the Diocese. In the beginning of this report, we stated that arhimandrite Firmilijan tried, after reading the decision of the Holy Assembly of Bishops at this meeting, to take over the administration of the Diocese. Bishop Dionisije definitely refused to hand over the administration because he does not accept the decisions of the Holy Assembly of Bishops and Synod. This question was then postponed and the discussion on division of the Diocese took place. During this discussion, arhimandrite Firmilijan tried again to put the first question on discussion. Then Bishop Dionisije got up and said that he accepts the decision of the Holy Synod concerning prohibition of church services, but the administration of the Diocese cannot hand over to anyone, except the people who welcomed him 23 years ago. He claimed that there are many other reasons which "inable

him to hand over the Diocese," especially his close connections and work with Episcopal Church in America. One of the Council members reminded him that not long ago he signed a resolution of the Diocesan Executive Board as well as two resolutions of the Priest Association, in which the cannonical, spiritual, and hierarchical unity with the Church in Yugoslavia, as well as the authority of the Holy Assembly of Bishops and Synod in connection with his wrong-doings is unconditionally recognized; he said that he removed his first signature several days ago; yesterday he removed his second signature; today he removes his third signature given at the Annual Priest Association Assembly in Lorain. To have a real picture of the whole situation, we may say to you that Bishop Dionisije, with these doings, lost the trust of almost all, even his closest coworkers, but the present situation is on his side and he succeeded to reduce the severity of his wrong-doings by people's doubt in the well-meaning and free decision-making of our higher Church Authorities in Yugoslavia.

Almost at the end of the above meeting, arhimandrite Firmilijan was recognized the third time. He told the Council that he came to this meeting to carry out the order of the highest Church authorities and again requested the Council members, calling their attention to their oath and duties to the Church and to bad consequences outcoming from this position of Bishop Dionisije, to make decisions and immediately hand over administration of the Diocese to him as the appointed administrator until Bishop Dionisije's wrong-doings are tried and the decision made. The Council's members present, excepting a number of priests and laymen, remained untouched as they were in the prior two endeavors and obviously were in accord with Bishop Dionisije, who again said that he will not hand over the administration of the Diocese and that he does not recog-

nize the decisions of the Holy Assembly of Bishops and Synod. After this, arhimandrite Firmilijan said that, when Bishop publicly and obviously does not honor decisions of the highest Church authorities, from now on, the Bishop should not expect him as his Bishop, to respect him and carry out his decisions and orders. Approaching the Council's members, arhimandrite Firmilijan called again their attention to the seriousness of the situation and their responsibility as well as to the consequences that may come forth. He considered this meeting illegal and all decisions are illegal and unconstitutional. Insubordination of Bishop Dionisije to the highest Church authorities is a tragic first step for schism in our Diocese. After this, he left the meeting by saying that he will carry out the decisions of the Holy Assembly of Bishops and with cooperation of the other two administrators, organize a new temporary administrative center and report about this to the clergy and church-school congregations of the up-to-now American-Canadian Diocese. Together with him, the meeting was left by priests: Milan Brkich, Miodrag Mijatovich, and M. Djuvich and a few laymen members. At this time, Bishop Dionisije said that arhimandrite Firmilijan is not Bishop's representative any more, and the next day, he made decisions in writing that M. Djuvich and M. Mijatovich are not the members of the Diocesan bodies any more, although they were elected by the church-people assembly.

After this meeting, Milan Brkich, Bishop's representative for Mid-West, and V. Rev. Vladimir Mrvicin, Bishop's representative for West, met in Milwaukee on June 7, 1963 and sent a letter to us, administrators of dioceses, with six questions requesting explanation; this letter is enclosed.

On Sunday, June 9, 1963, the consecration of the new Church hall, school, and parish house took place in Cleveland, Ohio. With blessings of His Holyness, Patriarch

Gherman, the consecration was performed by three of us with 20 priests and one deacon. After going three times around the church with about 2,000 faithfuls, we washed the holy table (casna trpeze) etc., as prescribed in the book. Although it was expected that some negative elements will use this opportunity and try to cause some troubles, we were very cautious and tactful and nothing happened. The faithfuls followed this holy church service in best order and piously. At the end of the liturgy, V. Rev. St. Lastavica preached. Somewhat less than 2,000 people attended the banquet; they came from various colonies of America and Canada. In the name of Church and clergy, the main speaker was arhimandrite Firmilijan, who in his speech especially emphasized the wish of the highest Church authorities to hold cooperation and unity among the Serbs in America and Canada. Father Grigorige also greeted the present people. After the banquet, usual amusements (dancing, singing, etc.) followed, also without troubles. Three of us left Cleveland in the evening with a belief that the faith and sincerity of the attending Serbs to their Mother Church came to a full expression.

Based upon the above said, we are taking the liberty to present our opinion to the Holy Synod:

1. It is indispensable to rush trial against Bishop Dionisije and make a definite decision in connection with his schismatic actions and other wrong-doings, because he is making confusion among the Serbs by his statements, that the communist regime is after him through the Holy Assembly of Bishops and Synod. Without doubt, only his church wrong-doings may be taken into consideration. Serbian church-people assemblies called for August 6, 7, and 8 of this year: this Assembly was called by the civilian members of the Diocesan Council and may be cancelled. By that

time, it would be necessary to publish at least proving material about his guilt, if not the final decision.

2. Since Bishop Dionisije is everywhere stating that he is condemned without hearing, it would be good to send him the formal indictment for answer and let one of us three know about it.
3. After his unsuccessful separation of the American-Canadian Diocese from the Mother Church, Bishop Dionisije evil-mindedly presents the decision of the present Diocese on three Dioceses as an act of separation and has succeeded to persuade the majority of the layman-members of the Diocesan Council and influential Serbs in the public life. Therefore, it is necessary in the future actions and decisions of the Holy Assembly of Bishops and Synod, to emphasize the unity of the newly formed dioceses among themselves and with the other dioceses of the whole Serbian Orthodox Church as one indivisable whole.
4. In accordance with the judicial concepts over here, it would be useful that a delegation conduct trial and hearings over here and check financial and material handling of Bishop Dionisije; this, up to date, was unapproachable to us.
5. To emphasize or point out once more that the boundaries of the newly formed dioceses of America and Canada are temporary in order to avoid unnatural division as prescribed in the decision of the Holy Assembly of Bishops AC No. 2021/ZAP 77 of May 10, 1963. The spiritual center of the Mid-East American-Canadian Diocese should be in Shadeland—future monastery "Blessed Virgin Mary." We request the Holy Synod of Bishops to have a profound trust, that the three of us have accepted heavy duties and responsibilities in order to solve church problems in this

most important time for the American-Canadian Serbs; we will solve them peacefully and to be useful for the Church as a whole, so that we will not depart from any general Church questions.

Always thankful and sincere to the Holy Assembly of Bishops and Synod

Administrator

DEFENDANT'S EXHIBIT 218
SERBIAN ORTHODOX DIOCESE FOR
UNITED STATES OF AMERICA AND CANADA

To the Holy Bishop's Synod and
Bishop's Council of the Serbian Orthodox Church
Belgrade, Yugoslavia

number 164
dec. 23/1962

Your Holiness
Your Graces Metropolitans and Bishops
Our dear Brothers in Lord and St. Sava
Bless;

By its letter of Number 1856/Min. 366 of June 29, 1962 the Holy Bishops's Synod has notified us that the Holy Bishop's Council by its decision Number AC 19/Min. 50 has recommended to the Holy Bishops's Synod to assign a special delegation to visit our Diocese and, with us as responsible Bishop, to discuss the questions and propositions we sent, in its time, to the Holy Bishop's Council, as:

1. Elevation of this Diocese to the rank of Archdiocese-Metropolia:
2. Adding to this Diocese territory of South America and South Africa, and
3. Elecation of two of our Vicar Bishops as assistants to the legal Diocesan Bishop.

The Holy Bishop's Synod at the same time asked, that the Delegation would be brotherly received and to visit bigger colonies and parishes of this Diocese.

Confirming a receipt of the above letters we are notified that the copies of it have been sent to all of our priests and church congregations, with the recommendation that the Delegation should be Serbian and brotherly received in all our colonies visited by the Delegation. That gifts for our Patriarchate in witness to our added circular. sent also. to our newspapers for publication. Some of them published it.

His Grace Metropolitan Damaskin by his letter of August 10 has notified us that the Delegation will start by train on September 10th to Paris and thereafter by airplane to New York where they will arrive on September 13th.

Our immigrant Press made different comments about the purpose of this Delegation. Some of them attacked us, the Bishop of this Diocese as a person preparing a secession of our Diocese from our Patriarchate, asking for my release, as it was done by legal representatives of Yugoslavia and, as it happened with the Counsul General of Yugoslavia (Chicago and Toronto), and by some members of Ljotich movement "Zbor" gathering with Mr. Momchilo Djuich. Then the weekly newspaper "Voice of Canadian Serbs" edited in Toronto by Mr. Radoje Knezevich a former Minister of the Court (of King Peter II) as well as by the supporters of the Communistic Regime in Yugoslavia. One part of the movement of Ljotich, "Zbor" gathering remained on its previous ideology: "Cecession from our Patriarchate.

As the meetings of the Holy Bishop's Council were long ago concluded some different commetaries were circulated about the purpose of the Delegation's arrival. Some private letters of some Bishops (from Yugoslavia) were shown as other private correspondence that I as Bishop will be released. For that reason I sent a special letter to His Holiness Lord Patriarch kindly asking for information. Whether the Delegation is arriving and when and also which questions it will discuss. We got an answer in the first half of August. After that we published about the arrival of the Delegation.

The Delegation arrived in New York on September 13th. They were met and greeted by our representative Very Rev. Firmilijan Ocokoljich, archimandrit, parish priest of

New York. The same day the Delegation arrived in Chicago where I personally met them at the airport with several priests. The Delegation was also met at the airport by the Consul General of this regime of Chicago. Upon our immediate arrival at our St. Sava Monastery we went to the church where we had a litthany for the King, for the Patriarch, for the Metropolitan Damaskin and for myself and the other Bishop. I extended my official greeting to the Delegation. It should be mentioned in here: that His Grace Metropolitan Damaskin agreed that in each colony should be visited by the Delegation. The local parish priest may mention the name of King Peter II but Archideacon Branlslav Petrovich, a third member of the Delegation, is to mention the names of His Holiness Patriarch and the Bishops. The Delegation was hospitalized in our Monastery of St. Sava.

In the name of our Diocese the Diocesan Executive Committee, called for Sept. 14th, extended its welcome greeting to the Delegation. Since our Diocesan Sister's Auxilary had its annual gathering on September 15th and 16th, the Sisters Auxilary National President Mrs. Andja T. Polich extended a greeting to the Delegation. During that occasion we awarded all members of the Delegation our Diocesen award of the St. Joanikije, the first Serbian Patriarch. The first Holy Liturgy, on Sunday Sept. 16th was performed by his Grace Metropolitan Damaskin.

Monday, Sept. 17th started our official work with those questions:

1. Questions of amendment of our Diocesen Constitution;
2. Question of adding to this Diocese the territories of South America and South Africa;
3. Question of elections of one or two Bishops for this Diocese.
4. Question of my arrival in Belgrade and participation in the work of the Holy Bishop's Council;

5. Question of my "not mixing in Politics";
6. Question of visiting our bigger colonies by the Delegation;
7. Question of charges against me as the Bishop of this Diocese.

His Grace Metropolitan Damaskin and Bishop of Backa Nikan participated in our discussion. The Bishop Nikaurz has agreed to sign the minutes they prepared. His Grace Metropolitan Damaskin presided at the discussion and laid down the questions:

1. THE AMENDMENTS OF THE DIOCESAN CONSTITUTION

His Grace Metropolitan Damaskin asked: "In which stage are the question of the Amendments to the Diocesan Constitution? My answer wa: "According to the decision of our National Assembly and in the spirit of Diocesan Constitution Art. 23 p. 8 a special committee eas elected to prepare those amendments. All of our priests were asked to give their own suggestions for the Amendments. That work was unfinished, when all preparation is done they will be sent to the Bishop's Council for approval. At the same time, I said, as president of our Church National Assembly that I sent in 1956 some propositions of changes of some articles of the Constitution relative to the election of Bishop of vicar-assistent Bishop of elevation of this Diocese to the rank of Metropolia as well as others, according to the Article 12 of the Constitution, p. 2. Some of those questions are still undecided and unconfirmed.

His Grace Metropolitan Damaskin gave his explanation: For the time being all porposed amendments of the Constitution concerned with the Constitution of the Patriarchate could not be changed, because the Holy Bishop's Council has its own reasons why the amendments of Patriarchate's Constitution at the present time shouldn't be brought. These reasons we are not mentioning in here but that the

process of amending the Patriarchate's Constitution will open a door of interference of some elements enemical to the church. That will damage the church itself. Accordingly it could not be spoken of the elevation of this Diocese to the rank of Metropolia, nor changes in regarding the election of Bishop for this Diocese. Very Re. Branko Petrovich in private conversation with some of our members said: Nothing of the elevation of this Diocese to the rank of Metropolia.

I, myself, declared: "I didn't ask for myself the rank of Metropolitan, but for the benefit of this Church and of the scattered our Serbian People. I din't write about it in my own name but on behalf of our diocesan Church-National assembly. I gave my own written declaration: If I am not wanted neither by the Holy Bishop's Council to be a Metropolitan, nor by this people, let be elected somebody else by these people, and this Diocese should become a Metropolia because of her immense space, (all American Continent) which would be a connection of scattered Serbs in their own Serbian Orthodox Church. Now I am withdrawing all my proposals but at the time before our diocesan Church-National Assembly, I will, simply, explain what I didn't succeed and I will turn over all those proposals back to the Diocesan Church-National Assembly, and let it be how the people deside and how the Bishop's Council approve it.

I am adding in here my own private opinion about the ammendments of the diocesan Constitution, and the Constitution of Patriarchate, which I didn't express before the Delegation, as:

The Holy Bishop's Council already made same cardinal changes in its own Constitution as: He abolished our own Diocese of Budinlje-Polimlje; He eliminated de facto as part of the Serbian Orthodox Church the Dioceses of

Skoplje, of Ohrida-Bitolj, and Zeletovo-Strumica transferring them to the so called Mecedonian Orthodox Church; He delivered to the Moscow Patriarchate our Diocese of Chechoslovakia and Moravia; He eliminated our vicarate of Scadar (in Albania) not electing anyone anymore, even not nominating a Vicar-Bishop of Scadar; He gave to himself "free hands" in the decision of those parts of our Sremsko-Karlovacka Metropolia which are ourside of Yugoslavia; (That was a decision of Diocesan Church-National Assembly) He gave to himself "free hands" regarding the article 16 of its own Constitution "Concerning the creation name, abolition, distrikting the sizes of the Diocese and the creation and abolition of the position of the suffragan Bishops," and he is bringing decision with legal power of everything considering as needed and useful for the Holy Church so, accordingly, he could change decision and articles relative to the name of this Diocese and of elevation of its Bishop to the rank of Metropolitan.

2. THE ADDING OF THE TERRITORIES OF SOUTH AMERICA AND SOUTH AFRICA TO THIS DIOCESE.

That right is given to the Holy Bishop's Council by the Patriarchate's Constitution. There is no change of the Patriarchate's Constitution at all. By the arrangements of the Dioceses were done in the amended Constitution of 1947. It is not in conformity with the Article 14 of the Patriarchate's Constitution in the present situation of Belgrade-Karlovci Archdiocese which had its seat in Belgrade since from that Archidiocese there were left only several places and from her other territory was formed two Dioceses: Sremska and Sumadijska.

Regarding this question I declared: I will not accept it if His Holiness Patriarch himself gave to me to be administrator of those parts of the world since he could take them from me at any time. I will accept it only if the Holy Bishop's Council decides that these territories be a part of our Diocese. The Delegation accepted my declaration that they will propose it to the Holy Bishop's Council.

3. QUESTION OF ELEVATION OF BISHOP FOR THIS DIOCESE—IT IS ALSO CONNECTED WITH PROPOSED AMENDMENTS

Right of the Bishop's Council for the elevation of Bishop of this Diocese in no way will be curtailed and this Diocese would have a right of proposing candidates for the Diocesen Bishop. I consider it, that the Holy Bishop's Council could accept it. The same happened to the Bishop's Council himself on election of a Patriarch when they proposed three candidates of whom he may elect anyone he wants. Besides that the whole Constitution was brought in the time when the Kingdom of Yugoslavia had a right of confirmation of all elected Bishops including a Bishop for this Diocese. I, myself, came to this Diocese with a confirmed decree. If the Holy Bishop's Council accept this proposal it will avoid all attempts of all those who are dreaming of cessation of this Diocese from the Patriarchate. If it remains according to the present standpoint, in hiding himself behind the of "not changing of the Constitution. Later he will cause many difficulties and convultions perhaps and cessation. At the same time the election of a new Bishop for this Diocese will be easier because this Diocese is self-supported: supporting her own Bishop as well as other church organs and bodies. If it could not be that way and give the people their rights—no that could be only in the totalitarian

system and regimes but not in democratic states since there is no obligation without right and vice-verse.

Delegation didn't accept my arguments.

4. QUESTION OF ELECTION OF A SUFFRAGAN-VICAR BISHOP FOR THIS DIOCESE.

His Grace Metropolitan Damaskin explained that it will be a great precedent if to any Diocesen Bishop be permitted a Vicar-Bishop except to the Patriarch. He proposed: I as Diocese Bishop may propose to his Holiness Patraiarch, he to the Bishop's Council, two or three candidates which will be de jure elected as Vicar Bishops to His Holiness Patriarch, but de facto—that His Holiness Patriarch may assign them at the service to us—the American and Canadian Bishop. It could be done that two or three Bishops from Yugoslavia may be called to perform ordination and perform the oath to the Bishop's Council, etc. The unity of our Church will be saved in that manner.

My answer was: I already refused such a proposal by His Holiness Patriarch through Very Rev. Milan Brkich. I could not accept Vicar Bishops having their own principal in some other person, except me. His Holiness could remove those Vicar Bishops according to his own wishes. Something may happen that I could not accept since it will be one country but two rulers. For example: today your delegation made a proposal to me to collaborate with Titos, representative in this country, that will be ordered to those Vicar Bishops. Also I, as jurisdictional Biship, am not in accord with it. Besides that, I would not make any proposal before some consultation with our clergy, diocesan authorities and diocesan Church-National Assembly. The Delegation then declared, that such a "precedent"—that Diocese may propose candidates for Bishops, could not be accepted. According to his opinion, that would cause

great troubles and interference of different laymen in Kife of our church, but only I, as diocesan Biship, should send such a proposal.

I declared: such a proposal is in the best interest of peace and unity of this Diocese with the Mother church. I could not send any such proposal and we would never receive any Vicar Bishop, elected and sent by the Holy Bishop's Council without agreement and proposition by the Diocesan Church-National Assembly. In accordance with that I am not sending any proposal to His Holiness Patriarch for any Vicar Bishop. If he needs any of them, let him propose them for himself and the Holy Bishop's Council let elect them, understanding for those church regions only where His Holiness administer the church affairs.

5. QUESTION OF MAY ATTENDANCE TO THE SESSIONS OF THE HOLY BISHOP'S COUNCIL.

That question was delivered to me by His Grace Metropolitan Damaskin adding to it since His Holiness Patriarch and the Holy Bishop's Council guaranty my security. Besides that, is your obligation to come, he added. Abstinency is a canonical guilt. I answered to it: Who guaranties to His Holiness Patriarch and to the members of Holy Bishop's Council their own security if they accept my viewpoint and standing of work and activity? Could you overthere (in Yugoslavia) guarantee to yourselves such a security in the similar cases. With that standing and activity of our church in Yugoslavia, the church enjoy some kind of security, but if your standing is changed who could guaranty security to you and to the church? His Grace Metropolitan Damaskin said: that answer has some reasons and because of them the Holy Bishop's Council didn't raise any question against my abstinence.

6. QUESTION OF NOT-MIXING IN POLITICS

This question is connected with cooperation with Yugoslav-government representatives in this Country. The Delegation asked that I should cease to conduct national Serbian affairs and work only in the limit in the church activities. My answer was: I will remain with my answer given to the Holy Bishop's Synod, that all my present work is not as political doing and is not "mixing in politics", but that it is a conduct of church Serbian National affairs. It will be impossible for me to change that line of work, first, because of my conviction. I am fighting communism from the time of my students age, even from the time when I was in High School. My view-point is this:

The State's Constitution in the Yugoslavia Church is seperate from State, and in accordance with that church is governing its affairs autonomously as well as taking care of the Serbian people as her spiritual children. According to its own Constitution Government in Yugoslavia has no right to mix in church affairs. I am, and I will remain, in unity with our Mother Serbian Orthodox Church of St. Sava, if that unity is not spoiled by you, from overthere (Yugoslavia). In the sametime I am fighting each kind of communism and of Tito's communism as well by my right as a member of Serbian Orthodox Church and by my right as an American citizen as well as by my right as a free man to whom Tito, even in here, is trying to close the mouth through you, through His Holiness Patriarch and through the Holy Bishop's Council.

His Grace Metropolitan answered to it this: Surely many church rights overthere are denied, but in the sametime we enjoy some relative freedom, and this diocese, which should be strong, could help our church much more if I, as a Bishop, could establish some connections directly

or indirectly, with the representatives of Yugoslavia. In that case help from here could be greater and stronger. A lot of things could be finished by telephone conversation, through embassy or Consulates of Yugoslavia. For us, the Orthodox Serbs, has no one from outside of Yugoslavia to intervene, and because of that lack we have less help from the outside world (meaning outside of Yugoslavia).

I replied to this remark: Such a proposition could not be accepted. First if I accepted it our people wouldn't want us as a Bishop. Second I would betray my own conscience here, in freedom, which you are trying to have your difficulties. What I may promise is that: I will not attack our Patriarchate for cooperation with Yugoslav communistic regime. You could fight overthere as you could and can. We greatly respect that. But that dictatorial regime has no right to use you to strangle a voice of free part of the Serbian Orthodox Church. That regime has no right to ask through you, overthere, that we in here should not "mix-in politics" as an "exclusive right of the communism" and nobudy else has a right to think about himself, about its nation, but only to keep quiet and to accept laws made by communism and nothing to say when communists are talking and doing about our property, freedom and other right even of life itself. That is flagrant usurpation of rights and a greatest tyrany executed by a dictatorship. I declare: I will remain for our people, for our church conducting her mission from her very beginning to the present time. Finally delagation agreed—that the work of church is not any politics but only care for her own people.

After that I directed to the delegation a question: why our Diocesan delegation wasn't received in Belgrade?

His Grace Metropolitan Damaskin answered: The Holy Bishop's Council by its structure could not receive any laymen to attend its meetings and to negotiate with them. I said—that is understandable, but why the Holy Synod and the Patriarch could not accept our delegation and talk with it, receiving each person and delegation. Why you asked for my personal attendance? Since His Holiness didn't want our delegation I notified the Patriarch, the Very Rev. Milan Brkich, who already was in Belgrade, is not our official representative.

His Grace Metropolitan Damaskin said "that was a mistake". He confirmed it before our diocesan Executive Board. After that I said: because of "your mistake" I said openly in here about that question. Metropolitan Damaskin added that it is a declaration of war. I said: "It is not, that is in view of your sermon of Abesalom and burning a field of Joab when he didn't answer on several calls to come and see him appear togeather before King David, his father. We wrote about it to the Holy Bishop's Council since 1956 and all the time we were refused. Now the Holy Bishop's Council sent to us its own delegation which was brotherly accepted.

His Grace metropolitan said, "that question caused over there an opinion that in here some separation from the Patriarchate was prepared. After that he said, "that wasn't a matter and a way to correspond with the Holy Bishop's Council and Synod. It was understood so, since from over there were some reports regarding that matter. I answered to this remark:

You are afraid of me, the present diocesan Bishop, and the delegation arrived to protect the unity of our church from me who defended it to the present time? On that question I disagree with His Grace late Bishop Nikolaj Velimirovich which didn't want to recognize the Patriarch Vekentije, and which spoke and wrote of a need of crea-

tion of the Serbian Orthodox Outside Synod. Witness of that is the last Number of periodical Missionar of Jordanville and the Numbers of our Sabor of 1952. Bishop Nikolaj asked from us not to recognize the Patriarch Vikentije and through some chanels he worked for the recognition of the Serbian Orthodox Synod by the Patriarch of Constantinople. His Excellency Jovan Djonovich had with him some confidential conferences. He asked me to resign as Diocesan Bishop. The same had been asked by the late Bishop Irinej Djordjevich wishing to be main representative of the Serbian Orthodox Church outside of Yugoslavia and it was refused by Patriarch Gabriel. I am adding to it this fact: The seperation from Patriarchate was favored by the Ljotich movement "Zbor"—gathering about what we have some written proof in our achivement. Now, some of these Ljotich's, transformed themselves into defenders of our church unity and helpers of Patriarch German. We underline It: They are the main attackers against me through the priests association headed by Momcilo Djujich and all defenders of Very Rev. Emilijan Glocar. We are declaring: We will never seperate from our mother Holy Serbian Orthodox Church. To the present time every kind of an attempt I refuse. But if the Holy Bishop's Council will not meet the needs and wishes of these people and if by some imprudent gesture may provoke these people for separation, then let the Holy Bishop's Council see what do do, let him be responsible and not me, here. I, the present Bishop know my way and will remain in the holy will of God and St. Sava from whom my people will not separate. I will defend my own rights as well as right of our people in here by every legal and canonical means.

7. Regarding visiting of greater colonies we answered —a schedule to be prepared as it is proven by a separate added leaf.

8. REGARDING ACCUSATION AGAINST ME AS BISHOP.

This question we personaly directed saying: Are there any charges against me? His Grace Metropolitan Damaskin answered—yes, and they are in three capacities:

a) In regard to your personal life;
b) In regard to material misappropriations;
c) In regard to weakened church discipline and not fulfiilment of church rules.

His Grace Metropolitan Damaskin added to it: that some Mr. Milutin Devrnja wrote several letters to different Bishops and that His Holiness Patriarch said to him that a charge against you does exist from some lawyer. But, he said, this delegation is the Bishop's Council delegation, and didn't receive a duty to investigation Committee; only to establish relation of this Diocese and people with the Patriarchate (Remark: the relation existed). His advise was, that I personally should liquidate all those charges by a peaceful manner with the accuser.

To this point I answered this: Privately I could not answer any kind of charge not knowing either the content of the charges nor who the accusers are. Years ago I was accused by some Communistic group of America and Canada with different accusations, but the late Metropolitan Josif sent all of the charges to me for my answer and I answered on all of them. Why doesn't the Holy Synod send all those charges to me for my answer? When all the charges are sent to me I will answer those for which I find a necessity I will open a civil court case against the accusers. Let them prove their accusations before court and have some legal consequence. If the Holy Bishop's Council after my answer finds out the necessity of an investigation and that I am unworthy of the Bishops rank, I will receive every kind of legal and canonical judgment

and punishment. About all of that I will notify all our people, whom I am serving, as well as having been in the services of God for 23 years. Let it be after a legal procedure and after you judge it and these people. I am looking for a legal procedure to start and let my accusers receive upon themselves all expenses and let them appear before a court.

In connection with the charges against me His Grace Metropolitan Damaskin mentioned my statement regarding Cardinal Stepinac. My answer was: I extended greetings to Cardinal Stepinac when Tito had him on trial and I admired his heroic stand against the communistic rulers. But I am condeming his stand against Serbian people in the former Independent State of Croatia, that he should be brought before Serbian people to answer as a guilty person and before the Courts of Justice in the free world; For persecution of Serbs with his knowledge. His Grace Metropolitan Damaskin said: We want to be peaceful and tolerant toward the Roman Catholic Church. My answer was: In this country we are peaceful and tolerant since that is the Law and spirit of freedom of the Constitution of the United Stated of America.

All this conversation was concluded in our Bishop's office on September 19th 1962. After that time the delegation went to Chicago to visit Dr. Uros Seferovich to receive some medicines as well as to visit the Yugoslav Consul General. The Delegation was my guest on the occasion of my family Day.—St. Joakim and Anna and Metropolitan Damaskin cut our bread-cake, for which I was very thankful. After that began the visits of our colonies.

9. Priest association of our Diocese has asked permission that the priests may extend a collective greeting to the delegation during their special meeting call in South Bend, Ind. for November 19, 1962. I gave permission and went to attend that meeting.

President of the Association extended its greeting to the delegation saying that our priesthood are firmly standing for the unity of our Serbian Orthodox Church. His Grace Metropolitan Damaskin gave them his own greeting from the mother Church declaring that the delegation was very friendly receiced everywhere. That he looked wverywhere for great progress of church life, that this Diocese is not the one that he left 24 years ago and he drew atten tion to some Diocesan problems which will be solved nice and easy in agreement with Diocesan Bishop and Diocesan bodies, he said.

In my own greeting to the priesthood I said, that I am wondering from whom the priests are defending the unity of our church since I, as their Bishop, all the time defended it and saved it to the present time.

During this meetings Mr. Djujich, on of Chetnik's Commanders, Attacked me personaly that: I did not publicly extende my greeting to the delegation; that I am guilty person for all disorders and confusion in this Diocese; That I am secretly preparing the seperation from the Patriarchate; that I am not fulfuling decisions of Diocesan authorities etc. I didn't teach on those alegations.

On the same evening, in the parish home of Very Rev. Dojorje Vuckovich, again the priests were gathered among the delegation and again Djijich attacked me as well as some other priests, saying some lies against me, which even the delegation didn't like to listen to. I felt offended by the delegation which permitted these attacks saying: everybody who has anything against the Bishop let it be written and handed to us. Some of the women in the kitchen were trembling from listening to all of that. After I met the delegation in the Monastery I dicated a letter asking the delegation to reveal to me all those names of accusers. The Delegation didn't do it.

10. THE SECOND MEETING OF DELEGATION WITH THE DIOCESAN EXECUTIVE BOARD;

It was on November 23, in our St. Sava Monastery. Before that I asked the Delegation to issue some statement in which condition of our Diocese was, and if they found any feeling among the people for the separation of the Partirarchate as well as in our meetings and discussions. Metropolitan Damaskin didn't prepare anything for the public, neither did he want to issue any statement. He never answered to this letter.

During this meetin the Delegation was again brotherly greeted. Speakers were: Dr. Uros Seferovich, Vice President of our Diocese and President of the Serbian National Defence Council in America, our legal advisor Mr. Nikola Stepanovich and other/His Grace Metropolitan Damaskin answered some greetings and said:

That he is very satisfied by the brotherly reception from the Bishop, from the Diocese and the people; that the discussion between the Delegation and Bishop was hormonious, without any difficulty, and in some way some agreements were reached, but he didn't make a mutual committee for the public because of all that was only a changing of opinions about what he will report to the Holy Bishop's Counsel. He mentioned some points which were discussed as:

Constitution should not be changed at the today's circumstances, neither the Constitution of the Partriarch and it is not needed of changes. Question of raising the Diocese to the rank of Metropolia should be eliminated as well as the propossed election the Bishop for this Diocese which it was asked. He critisized why a publicity was given to this question. I answered to that remark, it was because of their refusal of our Delegation by the Patriarch, by the Holy Bishop's Synod and by the Holy Bishop's Council.

Regarding vicar Bishops he could not see any reason that they may not be from the United States but let the Bishop make a new proposal including some persons. The Waukegan Delegation will elaborate it and recommend it to the Holy Bishop's Council.

Regarding the including of the new territories of South America and South Africa—in our Diocese he thinks that the Holy Bishop's Council could approve it for two reasons: because of the great distance from Yugoslavia and because of the possibility of losing Serbs to other orthodox churches. Organization of whole Diaspora, even though there were reasons pro and con, could be brought again before the Holy Bishop's Council.

After that the Delegation took leave from our Diocesan Executive Board which wished to it a fortunate return to their fatherland, Yugoslavia.

11. My last conversation, were on September 24th in our Diocesan office, in St. Sava Monastery. I personaly decided that meeting with all three members of the Delegation. I asked the Delegation for these three things:

a) That the Holy Bishop's Council take into consideration my reasons for not attending its session since in these circumstances I could not come to Yugoslavia. In all the time I impowered some of the Bishops to use ny vote. To the present time I have not done anything against our Holy Church or the Holy Bishop's Council. If because if my not attending, comes some punishment, it would be understood as dictated by the communistic regime, and it will form an opinion that the regime is looking for my head. His Grace Metropolitan Damaskin said—that could be tolerated if between us in not any struggle and if these things are not published. I promised nothing would be published if from their side would not be any pressure.

b) That the Holy Bishop's Council explained, if could, to whom it needed government, that this is what I an doing in here with our people, is our Nation-Church and social work and duty which our Holy Church had as recommendations from its founder St. Sava, that is also our right as free subjects of this democratic and christian country. I decreed: that I an against communistic regime in every communistic form, that I am for the King, that I an for unity of Serbian people and Serbian Orthodox Church, that I am for unity of all Serbian emmigration against communisn, that I this Diocese as Representative of Serbs in the free world. Pinishments from overthere (Yugoslavia), if the Holy Bishop's Council may impose some thing against me, will be, and must be published—urbi at orbe—to all our Serbian emmigration and I will conduct myself by a free spirit of our emmigrantion. A punishment will be a proof of a dictatorship of Yugoslavia's communistic regime. Then I will not be responsable for the struggle which will unavoidabley atart.

His Grace Metropolitan Damaskin said: that he unstood it, and the borthers Bishops understand it but with the action in here you are hindering our church overhere and he was begging that we may moderate ourselves as much as we could. I answered it: that it is our desire to help our church in Yugoslavia but I cannot do otherwise by why, in fact, if Our Patrairchate defends communistic regime from our attacks. Why the Patriarch Varnava attacked the government of Yugoslavia in 1937 and struggled against concordare began? Why Metropolitan Mihailo did attack the Government of Serbia 1883 and after that he was exiled? Church could not bend to every wish and request of every government and regime.

c) Regarding the submitted charges against me, as Very Rev. Brnako Petrovich in Paris (France) as well as in here said. That what I am doin in here is hindering

our church in Yugoslavia, I am only asking—do not prejudge it. Let it take a regular legal course and regular legal investigation. Let all charges of priests and othe persons be sent to me for my answer and by that way justice will be satisfied for both sides: for the accusers and for the accused. According laws of this country nobody is considered guilty prior to being judged. I will be very sorry if the Holy Bishop's Concil, under the pressure, and before investigation, undertake some disciplinary and unlegal measures against me since I could not accept that. In that event I must come before public, and a fight will start which, undoubtly will lead to the division inside of our Diocese and especialy to the separation from our holy mother church which if occured will not be our fault, since I will not be able to extinguish the inflamed fire. That fire will transfer to other continants, since at the present time there are some requests from some parts of our Serbian emmigration of other continants to come to the jurisdiction of our Diocese.

If in this case the Holy Bishop's Council undertakes a canonical and regular procedure but I know it—that "Irodiada is asking the the head of John",—Tito—, of Bishop Dionisije, it could be positive, in the meantime, that some other peaceful solution will be found regarding the accusations and the problems. It might be everything will pass without a trembling, without cessation of our Diaposra form our Mother Church. I am not running away from any responsability, I didn't and will not. But if a stick is broken over my head, quickly and unexpectly, there will be somebody to defend me and my fight. Than indefinate struggle will start without my fault.

If by some canonical and regular procedure is proven, according to all private charges, that Bishop Dionisije is not worthy either to be Bishop any more nor to be Bishop of this Diocese. Nobody will defend me, than a rotten apple or pear will fall down from the tree by itself.

I am not saying this for myself, but for the consequenes which will happen, since I have a place and means to live with my pension. There will not be great damage to me but to our church not only in regard to the unity and entireity of our church but in regards to the help to our church and of her reputation before the world. If you could explaine all of this to the rulers of Yugoslavia, it will be very good, but if not, than, brothers, Holy Fathers, do as you consider it the best and let the merciful God be in help, all of us by prayers of the holy Virgin Mary and our dear Serbinan Saint martires and confessors through the ages, Amen.

His Grace Metropolitan Damaskin put some notes of all of that but it was said, that he mentioned somewhere that he found some releases of that Gordian knot. I am adding to it only this: that I catling of that Gordain knot means my replacement.

When I once asked the Bishop of Backa, His Grace Nikanor—how long the Holy Bishop's Council could defend me from the pressure and requests of the regime of my replacements, since, it is positively a fact, he could not answer it. He was afraid to say it openly, but he didn't deny that fact also.

I am adding to this report, that His Grace Metropolitan Damaskin never generally gave to me, as to the Diocesan Bishop, any credit or recognation for the progress of our Diocese, exsept when he couldn't avoid it and when I was present. Many of my accusers gathered around him in all the time, Djujich, adherents of Ljotich "Zbor" and others, which orally spoke to him against me as Bishop. All his attitudes toward me was cold as of a private investigator. I believe that there was a main goal of that delegation to

come in here with such instructions.

Submitting this, a little larger report to the Holy Bishop's Council, I am begging for an excuse since I work in details and remaining in all the time in the lap of the Serbian Holy Sava's Orthodox Church.

Sincerely to the Holy Bishops's
Council
Serbian Orthodox American and
Canadian Bishop DIONISIJE

Before Christmas 1962
In Serbian Orthodox
Monastery of St. Sava
Libertyville, Ill.

DEFENDANT'S EXHIBIT 220

HERALD

THE OFFICIAL ORGAN OF SERBIAN ORTHODOX CHURCH

NO. 9 / Belgrade, October 1, 1945 / XXVI year

OFFICIAL PART

No. 1826
28-15 of September, 1945

REPORT

About the business meetings of Holy Bishops held in Belgrade between 5 IX-23 VIII 1945 and 22-9 IX 1945.

It's taken in consideration the report of Department of Foreign Affairs, that His Holiness Serbian Patriarch Gabriel is in Italy, and His Grace Bishop of Zica Sir Nikolai in Saltzburgh.—

By reason of report of Diocesan Council of Czech's Orthodox Church that the Czech's orthodox Church is revived again, after the most terrible persecutions and tortures from the invader in which lost their lives His Grace Bishop of Czech's and Moravia-Shleska Sir Gorazd,

together with two priests from Pragh Rev. Vladimir Petrsek and Rev. Vaclav Chitka and president of Pragh's church congregation Mr. John Sonesvid all shot by firing squad on September 4, 1942;

And by reason of the Diocesan Council's plea that there should be sent as soon as possible a delegate of Serbian Orthodox Church in order to help in resolving of many important questions, Holy Bishops Synod, expressing their sympathy for the fallen victims for holy orthodoxy acknowleged and agreed with the decisions of Synods presidency in taking the steps with competent authorities, that there should be sent immediately His Grace Bishop of Banat Sir Damaskin as delegate of Serbian Orthodox Church.—

On the petition of His Holiness Patriarch of Moscow Sir Alexei the decision is brought, on the basis of art. 56 of the Serbian Orthodox Church Constitution and due to the urgent and unavoidable matters, that the diocese of Mukachevo-Prjasevsk is dropped from the Serbian Orthodox Church and transfered under the jurisdiction of Patriarchate in Moscow;

And this transfer should be executed personally, in Moscow, by His Grace Bishop of Mukachevo-Prjasevsk Sir Vladimir as juridicial bishop of this diocese, since he together with his clerics and the flock gave his grant on this.—

The letter of bishop Irinej from Apolonia (Albania) was read, in which he is thanking to Serbian Orthodox Church for the help in schooling of Albanain seminarists, and it's okayed that the books are sent to His Grace Bishop Irinej which he had asked for for their needs.—

By reason of demands of the Secretary of the Interior Affairs of Federative Republic of Yugoslavia that His Grace Bishop of America and Canada Sir Dionisije should

be called for questioning and his further activities should be forbidden against the new Yugoslavia, it is answered to Secretary of the Interior Affairs that the bishops are responsible to their higher church authorities if they come in conflict with the question of faith or general canonic discipline.—

Further more the American Serbian Orthodox Diocese, which is in organic ties with Serbian Patriarchate, has its separate Constitution by which in reference to its external independent activities is responsible and governed only according to the laws of the United States of America (article 8 of Serbian Orthodox Church Constitution of Serbian Orthodox Diocese in the United States of America).—

DEFENDANTS' EXHIBIT 221

BISHOP'S CONSENT TO TRANSFER AND MORTGAGE

I, BISHOP DIONISIJE, as successor to Right Reverend Bishop Mardary, as Bishop of the Serbian Eastern Orthodox Church for the Diocese of the United States of America and Canada, do hereby consent to the transfer of the following premises:

That part of the South East quarter of Section 33, Township 45 North, Range 11, East of the 3rd. P.M., in Lake County, Illinois, described as follows, to-wit: Commencing at the North West corner of said quarter Section; running thence South along the West line of said quarter Section 9.09 chains; thence South 76 degrees East 17.45 chains; thence North 4.54 chains; thence East 12.60 chains; thence North 8.79 chains to the North line of said quarter Section; thence West on the quarter Section line 29.60 chains to the place of beginning,

from the SERBIAN EASTERN ORTHODOX DIOCESE COUNCIL FOR UNITED STATES AND CANADA, an Illinois corporation, to SERBIAN EASTERN ORTHODOX DIOCESE FOR UNITED STATES OF AMERICA AND CANADA, a religious corporation.

I do further give my consent to the SERBIAN EASTERN ORTHODOX DIOCESE FOR UNITED STATES OF AMERICA AND CANADA, a religious corporation, to execute a mortgage on said premises of Ten Thousand Dollars ($10,000) or less.

(SEAL)

Bishop Dionisije (signed)
Bishop of the Diocese

State of Illinois
County of Lake—ss.

I, Rev. Firmilian Ocokoljich, do hereby certify that I am, and at all times mentioned herein was, the duly appointed and acting Secretary of the Serbian Eastern Orthodox Diocese Council for United States and Canada, and that as such Secretary I am the custodian of the records and proceedings of the Bishop and Trustees of such corporation.

I further certify that the names and residences of the Bishop and Trustees of said corporation are as follows:

Rt. Rev. Bishop Dionisije, St. Sava Monastery, Libertyville, Ill.
V. Rev. S. Ristanovich, 4943 N. Francisco Ave., Chicago, Ill.
V. Rev. Dusan Sukletovich, 1300 Connecticut St., Gary, Ind.
V. Rev. John Kraynovich, 907 Broad St., Johnstown, Pa.
V. Rev. Andra Popovich, 9807 Commercial Ave., S. Chicago, Ill.

V. Rev. Dr. Milan Popovich, 509 Hazel St., McKeesport, Pa.
Rev. Nikola Drenovac, 39 Laird St., Youngstown, Ohio
Rev. Strahinja Maletich, 789 Franklin Ave., Aliquippa, Pa.
V. Rev. Nikodim Stoyakovich, 767 S. Second St., Steelton, Pa.
V. Rev. George Petrovich, 724 S. Third St., Milwaukee, Wis.
Mr. Mile Radakovich, 501 N. Scott St., Joliet, Ill.
Mr. Dusan Dilaski, 1406 1st Central Trust Bldg., Akron, O.
Mr. Bozo Martinovich, 731 Van Buren St. Gary, Ind.
Mr. Milan Radakovich, 1603 W. Bruce St., Milwaukee, Wis.
Mr. Luka Christopher, 810 Washington St., Gary, Ind.
Mr. Zarko M. Buncick, 2610 1st Central Tower, Akron, Ohio
Mr. George Kovacevich, 2003 S. Jefferson Ave., St. Louis, Mo.
Mr. Risto Nogulich, 2912 N. Damen, Chicago, Ill.
Rev. Nikolai Dazgich, St. Sava Monastery, Libertyville, Ill.
Rev. Dimitrie Balach, 4525 S. 17th St., Omaha, Nebr.
Mr. Peter B. Nelson, 105 West Adams St., Chicago, Ill.
Rev. Dositej Obradovich, St. Sava Monastery, Libertyville, Ill.
Mr. Miodrag Mijatovich, St. Sava Monastery, Libertyville, Ill.

I further certify that Bishop Dionisije is the duly appointed Bishop of the Serbian Eastern Orthodox Church for the Diocese of United States of America and Canada, as successor to Right Rev. Bishop Mardary, and as such Bishop is, by virtue of his said office presiding officer of said Diocese and a Trustee and presiding officer of said corporation.

I further certify that in accordance with the usages, customs, rules, regulations and canons of said Diocese the temporal affairs of said Diocese and said corporation are solely within the jurisdiction and authority of the Bishop

of said Diocese and the Trustee thereof, and that action with respect to any such temporal affairs, and the exercise of any of the powers vested in them by law, or by the usages, customs, rules, regulations and canons of said Diocese may be taken with the assent of a majority of the Trustees which assent may be expressed at a meeting of the Trustees, or without a meeting, by a written vote, transmitted by mail by a majority of the Trustees.

I further certify that heretofore the question of the transfer of the following real estate situated in Lake County, State of Illinois, described as follows:

> That part of the South East quarter of Section 33, Township 45 North, Range 11, East of the 3rd. P.M., in Lake County, Illinois, described as follows, to-wit: Commencing at the North West Corner of said quarter section; running thence South along the West line of said quarter Section 9.09 chains; thence South 76 degrees East 17.45 chains; thence North 4.54 chains; thence East 12.60 chains; thence North 8.79 chains to the North line of said quarter Section; thence West on the quarter Section line 29.60 chains to the place of beginning

from said corporation to the Serbian Eastern Orthodox Diocese for United States of America and Canada, an Illinois religious corporation, the deed for said transfer to be executed by the Bishop and Secretary thereof, was duly submitted in accordance with the usages, customs, rules, regulations and canons of said Church Diocese and said corporation to the Trustees thereof above named.

I further certify that upon the votes expressed by Bishop Dionisije and the Trustees above named, the Bishop and 23 of said Trustees voted in favor of the transfer of said property as suggested, and none of said Trustees voted

in the negative, and that in accordance with the canons, rules and regulations of said Diocese, the transfer of said property for a nominal consideration and the execution of said deed were duly approved.

I further certify that the said corporation and Church Diocese have no written by-laws applicable to the transfer in question, but that in accordance with the canons, rules and regulations of said Church Diocese and said corporation the said Bishop Dionisije and the said Rev. Firmilian Ocokoljich, as Secretary, are duly authorized and empowered to execute, acknowledge and deliver, and affix the corporate seal to the deed for the transfer of said described real estate.

Dated, the 4th day of September, 1941.

Rev. Firmilian Ocokoljich (signed)
Secretary

CERTIFICATE

State of Illinois
County of Lake—ss.

I, BISHOP DIONISIJE, hereby certify that I am conversant with the affairs of the Serbian Eastern Orthodox Diocese for United States of America and Canada, and that after receiving title to the property described as follows:

> That part of the South East quarter of Section 33, Township 45 North, Range 11, East of the 3rd P.M., in Lake County, Illinois, described as follows, to-wit: Commencing at the North West corner of said quarter Section; running thence South along the West line of said quarter Section 9.09 chains; thence South 76 degrees East 17.45 chains; thence North 4.54 chains; thence East 12.60 chains; thence North 8.79 chains to the North line of said quarter Section; thence West on the quarter Section line 29.60 chains to the place of beginning,

from the Serbian Eastern Orthodox Diocese Council for United States and Canada, a corporation, that the Serbian Eastern Orthodox Diocese for United States of America and Canada will not have acquired by gift, devise, or purchase, land in excess of twenty (20) acres used for other than educational and eleemosynary purposes.
(Seal)

Bishop Dionisije (signed)
Bishop of the Diocese
(notarization omitted)

DEFENDANT'S EXHIBIT 240

Seattle: Zora Jaksich, Z. Stojkovich; South Chicago: Savo Pejovich, Vukale Vukotich; St. Louis: Cedo Buda; Sudbury: Ljuban Adzija, Bogdan Borich; Vancouver: Todor Samardzich; Warren: Bojana Pavkovich; Washington: Lazar Vracarich, Vojislav Pantelich, Arsen Kovacevich, Youngstown: Ted Stipanovich;

THE PRIESTS:

The Most Rev. Bishop Donisije, Rt. Rev. Archimandrite Dimitrie Balach & Irinei Kovacevich; Very Rev. Abbotts: Mitrofan, Adam, Nikanor, Vasilie; Very Rev. Protopresvyters: Dusan Sukletovich, Ugljesa Jelich, Svetozar Radovanovich, Jovan Marcetich, Branko Kusonjich, George Vukelich, Aleksije Shevcenko, Danilo Milanovich, Dr. Boro Pavlovich, Aleksandar Dimitrijevich; Protosingel Petar; Jeromonasi: Damaskin, Danilo, Kirilo; Presbyters: Milenko Stefanovich, George Uvalich, Dusan Petrovich, Velimir Kovacevich, Ljubo Stojanovich, Milorad Milosevich, Ilija Dajkovich. Gosti: (Guests: Antonije Abramovich, Georgije Djonlich), two priests from Australia and three from Europe by proxy. All together 36.

For all information write to:
Serbian Eastern Ortodox Diocese for the U.S.A. & Canada
Serbian St. Sava Monastery
Libertyville, Illinois

This list prepared by the
Diocesan Secretary
Rt. Rev. Archimandrite Balach, D.D.

PROCLAMATION
of the

Tenth Church National Assembly of the Serbian Orthodox Diocese for the United States of America and Canada

Summoned in regular session by decision of His Grace the Rt. Rev. Bishop Dionisije and Diocesan Council of this

Diocese, and held on the days of August 6th, 7th, 8th, and 9th, 1963 at the Monastery of St. Sava in Libertyville, Illinois sends warm greeting to all Serbian Orthodox Brethren within the territory of this Diocese and throughout the remaining parts of the free world, and particularly to those in the enslaved Old Fatherland. Being convinced because of many previous circumstances that all their eyes are fixed upon the Serbian Orthodox Diocese of America and Canada as the refuge of the free Serbian Orthodox Church and of the glorious national traditions, and of her resoluteness in the struggle against godless communism, (the assembly) deems it a holy duty to acquaint them of the following:

The Holy Synod of the Serbian Orthodox Patriarchate in Belgrade dispatched to this Church-National Assembly these Acts of the Holy Council of Bishops—AC No. 20 and 21/min. 77, No. 1725/min. 237, and No. 1726/236, of May 17th, 1963 together with its own separate epistle to the faithful of this Diocese—not dated—announcing the following: That the Holy Council of Bishops decided upon the dissolving of this, the Serbian Orthodox Diocese of America and Canada, and of her division into three Dioceses: The Middle-Eastern American-Canadian Diocese (Detroit, Mich.); The Middle-Western American (Libertyville, Ill.), and the Western American Diocese (Los Angeles, Calif.), thereby giving to these newly created Dioceses the same legal status as that of all the other Dioceses in the territory of the Socialistic Federated Republics of Yugoslavia. And at the same time, that it had named as the bishop-elect for the newly created Middle-Eastern American-Canadian Diocese the Very Rev. Archpriest Stephan Lastavica; that His Grace the Rt. Rev. Bishop Dionisije would remain on the throne of the newly created Middle-Western American Diocese, but that it had temporarly suspended his rights of administering that newly created Diocese,

and that it had placed him under sacerdotal suspension and under Ecclesiastical Court investigation because of many particular charges: and finally, that it had appointed administrators, to wit: for the newly created Middle-Western American Diocese the Rt. Rev. Archimandrite Dr. Firmilijan Ocokoljich, and for the Western American Diocese the Rt. Rev. Archimandrite Gregory Udicki.

In its own behalf, the Diocesan Plenum of this Diocese informed this Church National Assembly that because a great number of the faithful of this Diocese have called attention to the above mentioned decisions of the Holy Council of Bishops and Synod, which they themselves have received in the form of a circular letter, the Plenum met in session on June 6th, 1963, and decided:

"(1) The Plenum of the Serbian Orthodox Diocese of America and Canada STATES that this Plenum is not authorized either to accept nor to reject the question concerning the division of the American-Canadian Diocese into three Dioceses and for this reason the entire matter is being referred to the Church National Assembly, which, because of the emergency of the situation is summoned for the days 6, 7, 8 and 9th of August 1963 at the Monastery of St. Sava in Libertyville, instead of the earlier fixed dates of October 14th, 15th, and 16th, of this year, and in accordance with the regulations and decisions of 1960. THIS DECISION WAS UNANIMOUSLY ADOPTED.

"(2) Upon the motion of Rev. Alexander Dimitrijevich, seconded by Milosh Konjevich IT WAS DECIDED that a letter be directed to the Holy Synod with a most fervent plea that it send within the shortest period of time a Synodal Investigating Commission, at the expense of the accusers, which would investigate and conclude as soon as possible the question of charges against our Bishop Dionisije—since according to the above decision no change in the adminis-

tration of this Diocese could take place until decided upon by the already summoned Church-National Assembly. THIS POINT WAS ACCEPTED BY ALL PERSONS PRESENT WITH THE EXCEPTION OF TWO PERSONS WHO VOTED AGAINST."

The Diocesan Plenum informed the Holy Synod of its decision, and then the Investigating Commission of the Patriarchate, comprised of their Graces, Bishops Chrysostom and Vissarion, and Very Rev. Archpriests Mladen Mladenovich and Bozo Tripkovich, arrived in New York on June 28th, 1963, where it was welcomed by the Consul of the Yugoslav Communistic government.

The Commission arrived on July 5th, at the See of the American-Canadian Bishop Dionisije in Libertyville, Illinois, and attempted to give to him a hearing concerning his particular violations, but at the same time it refused to submit to him, in accordance with procedure regulating Church violations, copies of the particular charges for him to answer, nor did it inform him of the particular canonical violations which he is being charged, nor the names of the accusers. In this manner, the Investigating Commission denied him not only the fundamental right of every man and especially of a citizen of the U.S.A., to the constitutionally guaranteed right of a "fair trial," but it also made it impossible for him to prepare his defense, to name witnesses, and to avail himself of other means of proof.

In their private discussions with various functionaries of the Diocesan Plenum or with prominent public workers in the Church field of the Serbian people in the U.S.A. and Canada, Their Graces, the Bishops members of the Investigating Commission admitted: First, that they never did submit copies of particular charges for reply to His Grace, the Rt. Rev. Bishop Dionisije; and second, that they had to act in such a manner in order to protect the particular accusers, so that Bishop Dionisije could not eventually sue them through the regular civil courts and expose them to civil or criminal responsibility.

Truly however, the Investigating Commission did hurry to perform its real and main purpose for which it came—to consecrate Very Rev. Archpriest Lastavica as bishop of the newly-created Middle-Eastern American-Canadian Diocese, which it did perform on the day of July 13th, 1963 in the Church of St. Elijah in Aliquippa, Pa. On the other hand, the Investigating Commission together with the Priests Associated and the afore mentioned administrators of the other two newly created Dioceses, Archimandrite Dr. Firmilijan and Gregory, gave its full support: (1) to direct and lead all priests and church-school congregations, by means of incomplete explanations of half-truths, to break all ties with this Serbian Orthodox Diocese of America-Canada, and to stop the sending of assessments, but rather to send the same to them as the administrators of actually non-existent Dioceses; (2) to attempt to take from this Diocese and come into possession of diocesan beneficies: the Monastery of St. Sava in Libertyville, Ill., the Charity Home at Shadeland, Pa., and the Mission of St. Sava in Jackson, California, as also to take possession of Diocesan belongings in the accounts at various banks; and (3) to boycott this TENTH Church National Assembly and to use every means to prevent the election and the sending delegates of various church-school congregations to the same.

All these unlawful attempts remained to this day unsuccessful and this Diocese has continued—although with great difficulties and losses, both material and moral, its divine mission and work. The clergy, the church-school congregations and the faithful, as almost all national organizations surprised at first by this forceful attack, not only upon Bishop Dionisije, but also upon our foundations,

the autonomy and existence of this Diocese, began to collect themselves, to get together and to consolidate the lines of defenders of their garden of St. Sava on this continent.

All signs indicate that with this and such a stand was not anticipated. And, instead of this stand of the free faithful of the Serbian Orthodox Diocese being taken into consideration, according to that age-old saying, that the "Voice of the People is the Voice of the Son of God," the Holy Synod, by a decision of July 6th 1963, turned over the administration of the newly-created Dioceses which existed only on paper, into the hands of His Holiness and the Serbian and Macedonian Patriarch.

After this Bishop Vissarion journeyed back to Yugoslavia in order to affectuate a special session of the Holy Council of Bishops, which was held on the 26th of July 1963. The then rendered decision of the Council said: that the aministrators—archimandrites Dr. Firmilijan and Gregory are elected as Bishops of the Dioceses which were previously given to them to administrate. The oral directive accompanying this decision was, everything being considered, that their consecrations must be performed as soon as possible, and especially before the holding of this Tenth Church National Assembly. And thusly Archimandrite Dr. Firmilijan was consecrated in the Church of St. Sava in Milwaukee, Wisc., on August 1st, 1963, while the consecration of Archimandrite Gregory was performed in the Church of St. Stephen in Alhambra, California on August 4th, 1963. The protests of the faithful and picket lines didn't help at either of these consecrations, even though they were obvious exclamations of "Anaxsios" (unworthy), which render these consecrations canonically invalid, as the elevation of unworthy persons to the high rank of Bishop.

The aforementioned and cited decisions of the Holy Council of Bishops and Synod of the Serbian Orthodox Church in communistic Yugoslavia, and the afore-related events and actions of the Investigating Commission and newly-consecrated bishops undoubtedly indicate, that here under consideration is not the particular canonical violations of Bishop Dionisije as the main question at all. The central point is the planned and detailed studied and long ago carefully prepared contention of taking over this Diocese as the only strong and certain bulwalk against further communistic infiltration in the U.S.A. and Canada. This is further confirmed by the statement of Tito's ambassador in Ottawa, Canada, given recently in Windsor, Ont., that for their communistic infiltration it is very important that they take over at least one church-school congregation in this country and Canada.

This Church National Assembly especially emphasizes, that from the moment when the Communistic party had taken over power in Yugoslavia, the Serbian Orthodox Church had become gravely enslaved, as was also the entire Serbian People of Yugoslavia. The Communistic regime had confiscated almost all her properties and removable goods; originally it forbade all religious instruction, and later only formally permitted it, by setting forth numerous conditions which in effect actually makes it completely impossible; it forbade the celebration of the greatest Christian holidays and mercilessly punishes absenteeism of children from school or worker and clerks from work because of their celebration of such holidays; it stamps out the economic existence of everyone who dares to be married in a Church marriage, or who takes his child to church for baptism, or who celebrates his patron saint, the greatest and holiest national distinction of every Serbian family from the time the Serbs became converted to Christianity, and kept down through the ages.

The Serbian Orthodox Patriarchate, her holy council of Bishops and Synod and her remaining organs are so enslaved to the degree that all their decisions are rendered either upon the demand of the Federal Commission for religious question of the S.F.R. of Yugoslavia (to which there is a corresponding commission in each of the Federated units) or together with its participation and prior consent. This commission actually corresponds to the former Soviet Commisariat for Faiths.

The association of orthodox priests of the S.F.R. of Yugoslavia, which has as one of its objectives ". . . to promote and strengthen all the achievements of the heroic Peoples—liberating struggle of our people, especially; freedom, brotherhood and equality. . . .," i.e. to promote the power and the regime of the Communistic party of Yugoslavia, actually performs for the benefit of the regime, the role of a politcommisar in all institutions of Patriarchate.

The many-year resistance to the pressure of the communistic regime on the part of the Blessed—in reposed patriarchs Gavrilo and Vikentije, not to permit a schism in the Serbian Orthodox Patriarchate by the creation of the so called Macedonian Orthodox Church, was finally yielded unto the Patriarch Gherman. The age-old title of Serbian Patriarchs, which was: "Patriarch of the Serbs, Archbishop of Pec, and Metropolitan of Belgrade, Karlovac," he changed to a dual title "Patriarch of the Serbs and Macedonians." According to a recent statement made here in America by the Macedonian Metropolitan Dositej, even this duality of the present head of the orthodox church in Yugoslavia is of a temporary character. The Metropolitan expects that, following the election of two or three new bishops this fall, that the Macedonian Orthodox Church will definitely be separated from the Patriarchate in Belgrade and become independent, or even autocephalous. In this manner she will serve as a political instrument of the present communistic regime for the overtaking of the Greek part of Aegean and the Bulgarian part of Pyrean Macedona. However, never in all of history did there exist an independent, much less an autocephalous Macedonian Orthodox Church, and least of all from the time of the establishment of the Serban Orthodox Patriarchate in 1346, until our present days.

The above described situation of the enslaved Serbian Orthodox Church in Yugoslavia indicates in an unambiguous manner that the afore-mentioned decision of the Holy Council of Bishops and Synod of this Church National Assembly fall in the same category, having been written in the Federated Commission for religious questions of the S.F.R. of Yugoslavia, and signed by the mentioned high bodies of her hierarchy. What this Church National Assembly desires to point out, with regard to these decisions, is especially the fact: That not one of the earlier Church National Assemblies, nor even the Bishop of this Serbian Orthodox Diocese of America-Canada, have ever asked for the division of this Diocese, least of all into three new ones. But to the contrary, the Church National Assemblies of 1956 and 1960 asked that even that part of our Holy Church in diaspora which lives on the territory of South America, be placed under the jurisdiction of our Diocesan Bishop, with the aim of their perpetuation and of being gathered under the wings of the Mother Church.

—This Church National Assembly has during the course of this session examined in great detail the legal position of the Serbian Orthodox American-Canadian Diocese with the purpose of determining: first, Is this Assembly validly summoned, and accordingly, legal or not; and secondly, are the afore cited decisions of the Holy Council of Bishops and

Synod constitutional and lawful; with respect to the legal position of our Diocese, i.e. with regard to the directives of her constitution, or not. Relative to this, this Church National Assembly sets forth the following irrefutable facts:

(a) The Serbian Orthodox Diocese of America-Canada from its beginning is based upon autonomy, established by its Constitution of 1927, with all its subsequent changes and amendments of which the last were sanctioned in 1939 by the Holy Synod, in accordance with the regulations of the Constitution of the Serbian Orthodox Patriarchate of 1931. Its specific status and relationship with the Patriarchate is completely different from the position and relationship of all remaining Diocese on the territory of Yugoslavia. This is clearly shown by the fact that it is mentioned in a specific paragraph—article 13 of the Constitution (Patriarchal) of 1931, while reference to all others is made in article 13 of the same Constitution.

(b) Filled with Serbian spirit and the traditions of the Church of St. Sava, the Serbian pioneers on this continent, in founding their churches and desiring to maintain unity with the Mother Church in the Old Fatherland, also desired at the same time to maintain their own rights of self-administration and the bringing forth of regulations for the proper life and development of their religious institutions. In such a manner did their representatives meet in 1927, so that they might sovereignly with all the rights of a constitutional Assembly, at their own Church-National Assembly adopt the constitution of our Diocese, and submitted it for sanctioning to the Holy Council of Bishops and Synod of the Serbian Orthodox Patriarchate in Belgrade. In this way it became a two-sided legal act, which by article 15, the Diocesan Church National Assembly, as the highest legislative and directive organ, was solely authorized to render and adopt changes and amendments to the Constitution of the Diocese, both with regard to its own regulations, and with regard to the territorial jurisdiction of the Diocese and its internal organization.

Therefore, in view of the legislative process by which the Constitution of our Diocese came into being, every division of territory or change in the legal status of our American-Canadian Diocese, which our Church National Assembly, as its legislative and regulative body, does not adopt, represents not only an infraction of its autonomy and her unity and oneness, but also is a direct invalidation of the entire Constitution.

(c) The Serbian Orthodox American-Canadian Diocese formulated its described legal position and relationship towards the Patriarchate by regulations of Laws of the Serbian Orthodox Church in 1930, and of the Constitution of the Serbian Orthodox Patriarchate of 1931. Therefore, the only regulations which are obligatory for this Diocese are those which have been rendered up to April 6th, 1941 in the field of Church legislature in the Kingdom of Yugoslavia, and obviously insofar as they are not in conflict with the Constitution and legislation of the U.S.A., and Canada. Meanwhile, neither this Diocese as a whole nor its faithful are bound, nor can they be bound by any legal regulations prescribed by the present communistic regime in Yugoslavia, regardless of their being obligatory for the Serbian Orthodox Church in the Old Fatherland. Furthermore, it never should be lost to view, and the Holy Council of Bishops and the Synod regularly does overlook that the vast majority of the faithful of this Diocese are comprised of free citizens of the U.S.A. and Canada, for whom first of all are obligatory the regulations of their Constitution and legislation.

(d) By regulation of Art. 20 of the Constitution of the Diocese it is established that the Church National Assembly is summoned by the Diocesan Bishop ". . . in session every three years in the month of September, on the day which is directed by the Diocesan Bishop. . . ."

With regard to this Tenth Church National Assembly the irrefutable fact stands, that Bishop Dionisije, in conformity with the decisions of the Diocesan Council of February 7th, and the Diocesan Executive Board of April 17th, 1963 by the decision no. 178 of April 17th, 1963, summoned this Church National Assembly for the days of October 15, 16, and 17th, 1963. That means at a time prior to the bringing of the afore cited decisions of the Holy Council of Bishops and Synod even if these were to have been constitutional and lawful, and therefore, the validity of this Assembly cannot ever again be brought under question.

Meanwhile, only because of the situation created by the mentioned decisions of the Holy Council of Bishops and Synod, in an attempt to avoid the heavy consequences of such decisions, and having in sight only the interests and wellbeing of the Diocese, the Diocesan Plenum by its decision of June 6th, 1963, merely moved up the days in which the Assembly sessions would be held. There can therefore be no doubt generated that by its act the Diocesan Plenum had summoned a new Church National Assembly; it only changed the time of holding of the previous validly announced Assembly.

For these reasons, this Church National Assembly unanimously established that it had been validly summoned and that it is, according to the regulations of the Constitution of this Diocese, completely legal.

Concerning the aforementioned decisions of the Holy Council of Bishops and Synod this Assembly had found, that by such decisions in their entirety the whole Constitu-

tion of this Diocese has been abbrogated, all rights of the faithful of this Diocese had been destroyed, they had been subjected to the greatest insult and humiliation which could be heaped upon a free man. Furthermore, every Serb in the free world knows, that Bishop Dionisije by his untiring work, for a full 23 years of work in this Diocese has endebted the Serbian people; by the strengthening of the Serbian Orthodox Church in the free world, by his hard work for Serbian unity and by his uncompromising struggle against all Serbian enemies, and especially against the godless communism and blood-thirsty ustashism,—and these should have been the particular reasons for the Holy Council of Bishops and Synod, to guarantee for him to the fullest extent the right to an inviolate defense from the particular charges, in the spirit of the regulations of the Constitution and the procedure for Church-offenses.

Taking into consideration everything outlined above, the TENTH DIOCESAN CHURCH NATIONAL ASSEMBLY OF THE AMERICAN CANADIAN DIOCESE, which are participating of valid delegates among whom are 25 presidents and 31 priests, representing the membership and parishoners of 44 Church-School Congregations from the territory of this Diocese, of political, cultural and humane organizations, and further, representatives of the minority membership of 4 Church school congregations from the territory of this Diocese, and the total membership of 5 Church School Congregations from the territory of Europe, Africa, Australia and S. America, who were present as guests.

—in the desire to maintain and preserve one Serbian Orthodox Diocese in the Free world united and strong;

—convinced, that by the work and efforts of participants at previous Assemblies the basic autonomies of this Dio-

cese were established, her Church School congregations and her other religious institutions most necessary for their further life and proper development;

—being aware, that upon its participant and those they represent rests the awesome duty of preserving freedom, free and democratic institutions and the rights of their membership, our national traditions and national customs, and that they might be upon the liberation of the old Fatherland, restored to the hearths demolished by communistic godlessness;

—deeming, that in the interest of the further existence and proper development of the Diocese as a whole and our church-school congregation as its parts, 'conditio sine qua non' to completely prevent communistic infiltration in them by a determined fight, which will at the same time serve and defend the welfare of the U.S.A. and Canada, adopted the following

RESOLUTION

1. The Assembly does not recognize and considers as unlawful, unconstitutional, null and void the decisions of the Holy Assembly of Bishops and the Holy Synod of the Serbian Orthodox Church of Yugoslavia regarding the division of the Serbian Orthodox Diocese for the United States of America and Canada into three new Dioceses, nor does this Assembly recognize the suspension, deposition from liturgical duties and relieving of the Bishop's duties of His Grace, the Right Reverend Dionisije as the Diocesan Bishop for the United States of America and Canada; and finally, this Assembly does not recognize the nomination of the three new Bishops, The Very Rev. Stevan Lastavica, the Rev. Archimandrite Dr. Firmilijan Ocokoljich and the Rev. Archimandrite Gregory Udicki.

2. The Assembly demands most emphatically from the Holy Assembly of Bishops and the Holy Synod to revoke all its above mentioned decisions concerning our Diocese,

the Right Reverend Bishop Dionisije and appointment of the above named three Bishops and that the same three Bishops be drawn out of the territory of this Serbian Orthodox Diocese for the United States of America and Canada.

3. The assembly adopts the rule that the future relationship of this Serbian Orthodox Diocese for the United States of America and Canada toward the Mother Church, the Serbian Orthodox Church in Yugoslavia, is to be based upon the broadest autonomy for this Diocese and by which they shall be united through a spiritual and liturgical-hierarchial, but not through a canonical-hierarchial unity. Such kind of unity should connect this Diocese to the Mother Church until the full freedom of conduct and the making of decisions shall be restored to the Serbian Orthodox Church in Yugoslavia, which state of affairs can be expected only after the liberation of Yugoslavia from the Communistic yoke.

4. The Assembly requests from His Holiness, the Patriarch Gherman the Assembly of Bishops, and the Holy Synod not to take any disciplinary measures against the clergymen attending this Church National Assembly since the Assembly believes that such measures will provoke more tension and difficulties among the churches and its members of this continent.

5. The Assembly resolves that for the time being no orders or decisions of the Holy Synod or His Holiness the Patriarch will be recognized as binding for this Diocese until the relationship between the Mother Church and this Diocese, The Mother Church, the Serbian Orthodox Church in Yugoslavia, is not interferred with.

6. The Assembly repeats the request, in accordance with the resolution of the Church National Assemblies of 1956 and 1960, and in accordance with the ancient customs

of the Serbian Orthodox Church that in case of death or in case of incapacity of the Diocesan Bishop to conduct the Bishop's duties, or in case of needs, it shall be authorized to elect three candidates, one of which the Holy Assembly of Bishops shall confirm as Diocesan Bishop or Auxiliary Bishop to the Diocesan Bishop.

7. The Assembly decided to send a copy of these resolutions, by registered mail, return receipt requested, to His Holiness the Patriarch and to wait sixty (60) days for his decisions on Sections 2, 3, and 4 of these resolutions.

If His Holiness the Patriarch, the Holy Assembly of Bishops and the Holy Synod would not accept the above mentioned requests of this Church National Assembly within the said period of time, then this Church National Assembly shall look to other solutions for all questions which concern the future and conduct of affairs of this Serbian Orthodox Diocese for the United States of America and Canada.

For this purpose, today's session (August 8, 1963) of the Church National Assembly is being adjourned and shall continue its work on November 12, 13, and 14, 1963 at the Saint Sava Monastery at Libertyville, Illinois in the same composition of delegates, as well as the same presiding officers of the Assembly. However, in case of emergency, the presiding officers of this Church National Assembly shall be obliged to advance the meeting date of this Church National Assembly. In any event, the Diocesan Bishop, The Right Reverend Dionisije, in all his Bishop's rights, and in association with all other Diocesan authorities and organs shall continue, unrestricted, to conduct affairs of this Diocese.

8. The Assembly is aware and accepts the repeated statements of His Grace The Bishop Dionisije that he is prepared to defend himself of any accusations which have

been submitted or shall be submitted against him for any alleged violations in conduct of his duties as the Diocesan Bishop.

9. The Assembly declares that it will not recognize as legal any other "Church National Assembly" or any other "Diocesan authority" established by the three new Bishops forcibly imposed upon the members of any part of this Diocese.

10. The Assembly pledges to God, Saint Sava, its Mother Church and to the Serbian people that it shall do everything upon its best conscience, knowledge, and understanding to defend the existence, unity, freedom, interests and welfare of its Serbian Orthodox Diocese for the United States of America and Canada, and through the same the welfare of its Mother Church, The Serbian Orthodox Church in Yugoslavia.

In Libertyville, Illinois
August 8th, 1963

COMMITTEE FOR RESOLUTIONS AND GREETINGS

Secretary — Dragoljub Mitich

President — Dr. Ranko Brasich

Members: Dr. Urosh Seferovch, Mrs. Andja Polich, Milosh Bajcetich, Very Rev. Ugljesa Jelich, Bosko Langarton, Jovan Kontich, Nikola Stepanovich

DEFENDANT'S EXHIBIT 241

I certify herewith that the following (15) fifteen pages are true and correct copies of the Investigating Commission's Report, dated August 10, 1963, and that these copies were made under my supervision and control.

The original Report is presently in the archives of the Holy Episcopal Synod and under my control.

Belgrade, April 15, 1970

Secretary General
Holy Episcopal Synod
Rev. Mladen Mladenovic

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TO THE HOLY EPISCOPAL SYNOD, BELGRADE

By decision of the Holy Episcopal Synod, No. 1986/min. 265 in 1963, we are empowered to investigate the case against Bishop Dionisije, who is accused in the U.S.A., to interrogate the accused and witnesses, to collect evidence about this case and to prepare a report to the Holy Episcopal Synod, with all the evidence for further appropriate action.

(Exhibit No. I)

We could not interrogate the accused because he had refused to cooperate with us. Even before we had met him he had stated publicly (on St. Vitus Day, 1963) that: "I cannot submit for any interrogation and conversation with this Commission . . . I shall communicate with this Commission only by correspondence."

(Exhibit No. II)

Acting upon advice of his closest associates (Dr. Nikola Stepanovic, Dr. Urosh Seffer and Mr. Svetozar Maravich) he has received us any way (albeit not in his residence but in a restaurant) but has refused to answer any questions and insisted we communicate with him only in writing.

(Exhibit No. III)

Since we could not "take a word" from the accused, we went about questioning witnesses and collecting evidence.

From the charges against Bishop Dionisije received by the Holy Episcopal Synod we could conclude that he was accused *primarily for his behavior unbecoming his clerical rank and position* (Par. 219, Art. 2 USLU).

(Exhibit No. IV. Charges by: Rev. Dusan Popovic from Chicago, Sava Saracevic from Edmondton, Mrs. Stojanka Kovacevic from Indiana Harbor, Stojan Lazarevic from Chicago, Rev. Pavle Zelic from Steubenville, Rev. Stevan Prostran from Joliet, Rev. Momcilo Djujic from Gary,

Rev. Vladimir Milinovic from Indianapolis, Rev. Mladen Trbuhovic from San Diego, Prof. Milutin Devrnja from Buffalo, excerpts from an article by dr Dusan Silaski in the newspaper "Jedinstvo", an article "Black Dionisije" by Dobrosav Jevdjevic in the newspaper "Srpska nezavisnost")

Besides these charges we have questioned Mary Alice Drito from Shadeland, who repeated her testimony before two witnesses that Bishop Dionisije, having found her alone in the house, attacked her and attempted to rape her.

(Exhibit No. V—questioning of Mary A. Drito of July 27, 1963)

We have obtained a statement from Rev. Emilijan Glocar from Akron, that Bishop Dionisije had behaved in a similar manner with his wife Bosiljka.

(Exhibit No. VI—statement by Rev. Emilijan Glocar of July 14, 1963)

We have also ascertained that Bishop Dionisije had actually tried to persuade Mrs. Stojanka Kovacevic (a priest's wife) to prevent conception and gave her advice how to do it.

(Exhibit No. VII—statement of Stojanka Kovacevic from Indian Harbor, given on July 21, 1963, before the priest from Chicago parish)

Rev. Stevan Prostran from Joliet reported that Bishop Dionisije had said in his home to his sister-in-law: "You know, lady, my ass gotten so hard that I don't feel the blows any more."

(Exhibit No. VIII—a letter by Rev. Steven Prostran, May 20, 1962)

Raja Milinkevic from Lackawanna testified that the charge by Prof. Milutin Devrnja is true. Early in the morning Bishop Dionisije had come to the monastery cele-

bration in Shadeland, accompanied by a woman. He made some spicy jokes at the place where some sheep were barbecued, drunk and then went to celebrate the mess. This happned in 1957 or 1958.

(Exhibit No. IX—statement by Raja Milinkovic from Lackavanna, given on July 29, 1963, before Prof. Borkom Borcic and Rev. Miodrag Djuric from Lackawanna)

Bishop Dionisije had asked Rev. Vladimir Milinkovic from Indianapolis to persuade a girl from his parish (Evalen Petrovic) to join Bishop in his car for a trip to California, confiding to the priest that "she'll be well off".

(Exhibit No. X—statement by Rev. Vladimir Milinkovic and his spouse Ljubica, given on July 18, 1963 in Canton, before Rev. Dusan Klipa, Bish. Representative from Claerton)

Former President of the Serbian National Federation Mile Radakovic complained to Rev. Stevan Protran from Joliet that Bishop Dionisije had mollested his daughter Marija.

(Exhibit No. XI—Statement by Rev. Stevan Prortan from Joliet of October 21, 1962, repeated before the Investigating Commission on July 24, 1963)

Bishop Dionisije has also been accused for fiduciary misappropriations.

(Exhibit No. XII—Sources from speeches of Rev. Momcilo Djujic at the Convention of Clergy in South Bend on November 19, 1962. H. G. Metropolitan of Zagreb Damaskin and H. G. Bishop of Racka Nikanor participated at this Convention;

Letter of Rev. Momcilo Djujic of September 24, 1962;

Charge by Prof. Milutin Devrnja of June 9, 1962;

Letter from Chicago of November 27, 1963, received by H. G. M. Damaskin)

We have had no opportunity to examine financial management of the Diocese and Bishop Dionisije, but a Report of the Control Board of July 15, 1963 indicates it was not proper. Only the audit of financial management of Diocesan property at Shadeland revealed the following irregularities:

(Exhibit XIII—Report of the Control Board of Monastery Holy Virgin at Shadeland, Pa. of July 15, 1963)

Church Parish at Akron, Rev. Emilijan Glocar and Church Parish at Chicago had sent checks to the Patriarchate through Bishop Dionisije, in the total amount of $2,331. Bishop Dionisije had signed these in the name of the Patriarchate and cashed them. According to a Report of the Patriachate's Executive Board of July 19, 1963, Bishop Dionisije has never sent these checks to the Patriarchate, neither has he explained what had happened to them.

(Exhibit XIV—Photocopy of 3 checks signed by Bishop Dionisije, indicating he has cashed them, and a Report by the P. E. Board, certified by American Consulate that the money has not been received)

Bishop Dionisije has also been accused for violations against the church establishment (Par. 214, Art. 1, USPU)

(Exhibit XV—Charge by Rev. Dusan Klipa from Glaerton in the case of Abbot Mitrofan Kresojevic and Rev. Mladen Trbuhovic from San Diego)

From a photocopy submitted by Rev. Dusan Klipa it is clear that Mitrofan Kresojevic, priest of St. Stefan Nemanja Church, had personally admitted that he had been convicted by civil authorities for homosexuality.

This same man has been promoted to a rank of "protosindjel" and later to abbot, and today he is the parish priest at Cincinnati, Ohio.

(Exhibit XV)

Bishop Dionisije had been aware that graduate divinity student Dusan Vavic, presently priest in Trieste, has been suffering from epilepsy and has had been investigated by the police for relationship with an eleven years old girl. In spite of all this Bishop Dionisije ordained him.

(Exhibit No. XVI—Official Report of Rev. Milan Brkic, Bish. Representative in Milwaukee of August 2, 1963)

But, Bishop Dionisije has committed a great number of offenses against church establishment especially after the Holy Episcopal Synod had suspended and indicted him, and ordered him to refrain from any official acts; decision No. 1664/min. 188 of May 10, 1963.

In his Circular of May 25, 1963 Bishop Dionisije announced to clergy and people: "I do not recognize my punishment . . . I do not recognize ban on my official acts."

(Exhibit XVII—Circular of Bishop Dionisije of May 25, 1963)

In Memorandum No. 194 of June 3, 1963, Bishop Dionisije writes to the Holy Assembly of Bishop and the Holy Episcopal Synod: "Acknowledging receipt of your Acts No. 264/min. 188 of May 10, this year, I declare that I do not recognize decision of the Holy Assembly of Bishops and the Holy Episcopal Synod concerning partition of our diocese into three new dioceses; neither do I recognize my suspension or order to refrain from official duties. I shall not relinquish my duties until the Diocesan Church-Peoples Assembly."

(Exhibit No. XVIII—Memorandum of Bishop Dionisije No. 194 of June 3, 1963)

Moreover, Bishop Dionisije has asked, in his Circular on St. Vitus Day in 1963, church parishes in the Diocese to break away from Mother Church: "I welcome under jurisdiction of this Diocese all church parishes from the whole world, which do not want to accept dictate from Belgrade."

(Exhibit No. XIX—Circular published on St. Vitus Day, 1963, titled: "American (illegible word) Serbian Church Triumvirate")

Although himself suspended, Bishop Dionisije on June 7, 1963 suspended Bishop's Assistant Rt. Rev. Firmilian, and on June 12 this year, he suspended Bishop's Representative Rev. Milan Brkic from Milwaukee and Rev. Dusan Klipa from Claerton and added: "I ask all Serbian clergy and parishes to ignore new administrators Rt. Rev. Firmilijan, Rt. Rev. Grigerije and Rev. Stevan Lastavica and to recognize our Diocese, Diocesan Office, and us, who together with the Diocesan Board and Church Court administer this Diocese."

(Exhibit No. XX—Circular by Bishop Dionisije sent to Rt. Rev. Firmilijan and Memorandum of Bishop Dionisije of June 12, 1963)

On June 29, 1963, Bishop Dionisipe issued the following order to Abbot Simeon Grozdanovic at Shadeland:

"Yesterday arrived a new Commission from Belgrade—two bishops, one priest and one archdeacon. We have decided here . . . that they cannot visit neither the monastery or Shadeland . . . They will be looking for a place where they could ordain Rev. Stevan Lastavica into monastic order, so they could later consecrate him bishop. I prohibit his ordination at Shadeland. Therefore, if they appear you are not to open the Chappel or to receive them at all."

(Exhibit No. XXI—Photocopy Bishop Dionisije's Order of June 29, 1963)

During the meeting with the member of the Investigating Commission on July 5, 1963, Bishop Dionisije stated that he stands behind his circulars and statements, which he made before and after decisions of the Assembly of Bishops and the Synod.

(Exhibit No. III—Minutes at "Indian Club" in Libertyville, June 5, 1963)

Of all decisions of the Holy Assembly of Bishops and the Synod Bishop Dionisije has observed only one; he refrained from officiating in churches. On August 2 the same year, on St. Ilija's Day, he had violated even that order and celebrated morning prayer in Monastery of St. Sava in Libertyville.

(Evidence: Exhibit No. XXII—Photograph of Bishop Dionisije, taken on August 2, 1963 by Danilo Simic from Chicago and Statement by Archdeacon Bozidar Tripkovic and Danilo Simic, who on August 2, 1963, participated at morning prayer in the Monastery in Libertyville)

The Investigating Commission could not "interrogate Bishop Dionisije again" as it was ordered by telegram of July 30, because Bishop Dionisije had stated only a day before that he would not meet Bishop Hrizostom in Chicago or in the vicinity of Chicago.

(Exhibit No. XXIII—Statement by Archdeacon Bozidar Iripkovic of August 9, 1963 that Bishop Dionisije did not accepted an invitation for meeting, although was urged to do so by intermediary Rev. Branko Kusenjic from Cleveland)

In submitting this Report about our investigation and all the evidence, we are asking the Holy Episcopal Synod to appoint a prosecutor who will from the enclosed material prepare an indictment.

Exhibits: 23

Faithful to the Holy Episcopal Synod

August 10, 1963, Belgrade

Bishop of Branicevo,
Hrizostom
Bishop of Banat
(signature illegible)

2591
3/16/63

DEFENDANT'S EXHIBIT 243

I certify herewith that the following (10) pen pages are true and correct photocopies of the Minutes of the Holy Episcopal Synod, dated December 10, 1963, and that these copies were made under my supervision and guidance.

The original Minutes is presently in the archives of the Holy Episcopal Synod and under my control.

Belgrade, April 15, 1970

Secretary General
Holp Episcopal Synod
Mladen Mladenovic

(Round Seal)

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-412-

MINUTES

51

of the meeting of the Holy Episcopal Synod, December 10, 1963, Belgrade.

Present: President of the Holy Episcopal Synod, AEM and Serbian Patriarch Gherman.

Members: Bishop of Timok Emilijan, Bishop of Sumadija Valerijan, Bishop Zahumsko-Hercegovacki Vladislav, Bishop Rasko-Prizrenski Pavle

Secretary general of the Holy Episcopal Synod Rev. Mladen Mladenovic.

638

After the prayer "King Heavenly" was said, His Holiness Serbian Patriarch Gherman opened the meeting.

Rev. Mladen Mladenovic, Secretary General, reads the Minutes of the 50th meeting of the Holy Episcopal Synod.

After the Minutes were read the Holy Episcopal Synod decides to accept the Minutes without comment and sign it.

639

3714

His Grace Bishop of Mid-West America Firmilijan presents the Report about appointment of bishop's associate, members of the church court and their substitutes, secretary of the Diocese and the legal councelor.

After deliberation the Holy Episcopal Synod decides:

Recognize decision of His Grace Bishop of Mid-West America Firmilijan to appoint: for Bishop's Associate Rev. Milan Brkic from Milwaukee, for members of the Church Court: Rev. Stevan Prostran, parish priest from

Joliet and Miodrag Mijatovic, parish priest from Detroit and Mateja Matejic, parish priest from Monroe and Milan Bajic, parish priest from Kansas City, and for their substitutes, Vojislav Dosenovic, parish priest from Omaha. For the secretary of the Diocese Dusan Popovic, parish priest from Chicago and for Legal Councelor of the Diocese Milan Drobac, attorney from Milwaukee.

640

3781

Secretary General of the Holy Episcopal Synod reports about expenses incurred at consecration of three newly elected bishops in the U.S.A.

After deliberation the Holy Episcopal Synod decides:

Approve the report about expenses incurred during consecration of three newly elected bishops in the U.S.A., a total of 222,909 dinars.

This outlay should be covered by the Holy Episcopal Synod from the deposit: Aid to the Holy Episcopal Synod from Abroad, which is maintained by the Executive Board of the Patriarchate.

• • • • •

646

3760

His Grace Bishop of Zica Vasilije sent with his Memo No. 1344 of 12/5/1963 decision of Commission for Misdemeanors, State Secretariat for Internal Affairs, No. 4590/63 of 9/25/1963, which indicates that fines of Bosko Jovanovic, tavern owner from Cestina, priest Arsenije Lazarevic from Kragujevac and Aleksandar Basaric, farmer from Belosave, were reduced by 50%. So they have to pay I 3,500, II 4,000 and III 3,000 dinars. He asks for intervention in order to avoid any fines for these men.

After deliberation the Holy Episcopal Synod decides:

Send a copy of His Grace Bishop of Zica Vasilije's Memo to the Commission for Religious Affairs together with the decision of the Secretariar for Internal Affairs, which imposed fines for celebrating St. Sava's Day in a tavern in Cestina on Bosko Jovanovic, tavern owner—3,500 dinars; priest Arsenije Lazarevic—4,000 dinars and Aleksandar Basaric, farmer—3,000 dinars, and ask for lenience of the authorities, so the above mentioned do not have to pay any fines, because they did not organize a religious gathering but came to restaurant for lunch.

647

3676

Secretary General of the Holy Episcopal Synod Rev. Mladen Mladenovic reads a Memorandum of His Grace Bishop Dionisije Milivojevic, of 9/18/1963, addressed to the Holy Episcopal Synod:

"Your Holiness,

Hereby I acknowledge receipt of your Memorandum, Holy Ep. Syn. No. 3215/min. 509, Oct. 18, 1963, with the enclosed INDICTMENT of the church prosecutor, His Grace Bishop of Zica Vasilije. This I have received on November 3, 1963, but the Memorandum arrived at the post office in Libertyville on October 31, 1963. The Indictment is type written on 38 pages.

Considering this large material, and as human and divine justice requires, I have to study carefully everything before the trial and before my answer to this Indictment. Therefore, I ask the Holy Episcopal Synod:

1. To grant a continuance for 6 months, 180 days, starting with December 1, 1963.

Rule 19 of the Cartige Council, mentioned by the Holy Episcopal Synod, deals with the date of trial and continuance. This Rule presupposes that the accused bishop lives in the same country. I do not live in the same country, not even on the same continent!

Procedure for courts in the Serbian Orthodox Church, Par. 109, is flexible. Church authority can grant continuance, and I do not renounce the authority of the Holy Assembly of Bishops and the Synod. Consequently, the Holy Episcopal Synod can grant the requested continuance as favor to accused Bishop Dionisije.

Besides, two weeks ago I had an accident with my car. My spine was injured and I am now recovering. I have doctor's certificate and X-Ray negatives to prove this, in case somebody has doubts about this. When I get better and recover ability to move freely, which is essential in gathering material for my defense because I have to go many places, I will prepare a detailed answer to the Indictment.

2. I would like to have certified copies of all the complaints and statements against me, which I am entitled to according to Par. 81 of the old Court Procedure, and Par. 67, Art. 4, of new Court Procedure. According to the same paragraphs I shall bear all expenses for these copies.

I authorize three priests to make copies, Kosta Lukovic, Dusan Vasic and Milisav D. Protic. Find enclosed my authorization, which I ask you to send to them.

In case if they refuse to do this, for any reason, I shall find someone else to do it. This could also be done in office of the Holy Ep. Synod, on one condition, that not a single line be omitted. In case that the Synod's office prepare the copies, I am likewise ready to bear all the expenses.

Very truly yours, Bishop Dionisije

Regarding requests mentioned in this Memorandum, which were the subject of discussion at the previous meeting of the Holy Episcopal Synod, and because that discussion reflected different opinions, it has been decided, in accordance with Par. 68, Constitution of the Serbian Orthodox Church, to invite at present meeting the following persons to express their expert opinion:

Dr. Sergije Trojicki, retired university professor,

Rev. Dr. Gardasevic, professor at Church Law at the Seminary, Belgrade, and,

Rev. Zivan Stefanovic Referent of the Holy Episcopal Synod and jurist, graduated from the University of Belgrade.

These persons should present before the Holy Episcopal Synod to expertly elaborate on following questions:

1. What is the canonical procedure for trial of a bishop, and

2. Is the request of accused Bishop Dionisije to review copies of all the evidence, which was used to prepare indictment against him, compatible with canonical rules.

Secretary General reports that he had invited all these persons, that professor Sergije Trojicki excused himself on account of his illness, while two other persons are here.

His Holiness Serbian Patriarch Gherman asks that they should come in and it was done.

His Holiness Serbian Patriarch Gherman explained to these persons why they are invited to the meeting of the Holy Episcopal Synod and asked them to present their expert opinions and this was done.

During the testimony it was getting late so His Holiness Serbian Patriarch Gherman adjourned the meeting at 12:30 and set 4 p.m. the same afternoon as time for conclusion of the meeting.

At 4 p.m. the meeting was resumed.

Present are His Holiness Serbian Patriarch Gherman and all members of the Holy Episcopal Synod.

648

3779

Before resuming the meeting of the Holy Episcopal Synod, His Holiness Serbian Patriarch Gherman announced that he has just received information that His Grace Metropolitan of Budim has passed away on 12/10/1963 at 1:30 in a hospital in Belgrade.

His Holiness Serbian Patriarch Gherman asks members of the Holy Episcopal Synod to pray for soul of the late Metropolitan Arsenije. All Bishops say prayer "All Just Souls" . . .

Secretary General of the Holy Episcopal Synod Rev. Mladen Mladenovic presents the last will of the late Metropolitan Arsenije, which was kept in the office of the Holy Episcopal Synod.

His Holiness Serbian Patriarch Gherman examines the last will, and after he has ascertained it was properly sealed, he opens it and reads.

In the envelope was found the last will of the late Metropolitan Arsenije, in his own hand writing and signed by him on 4/1/1963 at Belgrade, and in two identical copies.

The last will was read by Rev. Mladen Mladenovic and it was attached to this document.

After deliberation the Holy Episcopal Synod decides:

Take note of His Holiness Serbian Patriarch Gherman's announcement that His Grace Metropolitan of Budin Arsenije has passed away on 12/10/1963 at 1:30, in a hospital in Belgrade.

Send telegram to all bishops and ask them to celebrate masses for soul of the late Metropolitan Arsenije.

In accordance with Par. 70, Art. 20, Constitution of the Serbian Orthodox Church, appoint His Holiness Serbian Patriarch Gherman as administrator of this vacated dio-

cese, entrust him with the last will of the late Metropolitan Arsenije and ask him to make arraignments for his funeral and execution of the last will.

Inform all bishops and office of the Diocese for Budin about the death of Metropolitan Arsenije and appointment of the administrator.

• • •

Discussion about requests of His Grace Bishop Dionisije was resumed. This was a topic of the meeting in the morning, No. 3676/min. 647, and expert testimony was presented.

After a long discussion the Holy Episcopal Synod decides:

1. In accordance with Rule 19 of the Cartige Council accused Bishop Dionisije Milivojevic is granted one month continuance, in order to enable him to prepare a written answer for the Holy Episcopal Synod, in connection with his indictment. Continuance shall commence at the time when he receives this decision.

2. Request of accused Bishop Dionisije Milivojevic for copies of the evidence used in the indictment is denied, because no canonical or other legal rules provide for such procedure. Moreover, his indictment contains description of important elements of evidence, such as time, place and manner of offenses.

President of the Holy Episcopal Synod
AEM and Serbian Patriarch
Gherman

Members:

Bishop of Timok (signature illegible), Bishop of Sumadija Valerijan, Bishop Zahumsko-Hercegovacki Vladislav, Bishop Rasko-Prizrenski Pavle.

Secretary General of the
Holy Episcopal Synod
Rev. M. Mladenovic

DEFENDANT'S EXHIBIT 249

I hereby certify that the following (11) eleven pages are authentic and correct photostatic copies taken (filmed) under my supervision and instruction, from the original minutes of the Holy Council of Bishops of July 27 (14), 1963.

The original minutes are kept in the archives of the Holy Synod of Bishops under my control.

April 15, 1970
Belgrade
Supreme Secretary
Holy Synod of Bishops
Mladen Mladenovic, signed
Archpriest

Minutes

2

of the meeting of the special session of the Holy Council (Round Seal) Bishops held on July 27 (14), 1963 in the Patriarchal palace in Belgrade, under the presidency of His Holiness Serbian Patriarch Sir Gherman.

Present at the meeting are all the Diocesan Bishops, except Metropolitan of Budim Sir Arsenije, Bishop of Branichevo Hrizostom and the Bishop of Eastern America and Canada Sir Stefan.

The minutes of today's meeting were taken by His Grace Bishop of Sabac and Valjevo Sir Jovan.

5

After the reading of the prayer "O Heavenly King" His Holiness Serbian Patriarch Gherman opens the meeting at 9:00 o'clock a.m.

Secretary of the Holy Council of Bishops His Grace Bishop of Dalmacia Sir Stefan reads the minutes of the first meeting of the special session of the Holy Council of Bishops.

The minutes were accepted without any remarks and signed.

6

Before proceeding in the daily agenda H. Holiness reports to the Holy Council of Bishops of the dreadful tragedy of the earthquake that happened in Skoplje, in which a great number of citizens were killed. He calls the members of the Holy Council of Bishops to pray to God for the souls of the "victimized servants of God" in Skoplje.

The members of the Holy Council of Bishops in deep piety stood and sang "memory eternal."

His Holiness proposes that the Holy Council of Bishops sends a telegram of condolence to the president of the Socialist Republic of Macedonia Vidoje Smilevski, which contained the following:

"Holy Council of Bishops of the Serbian Orthodox Church gathered at its special session in Belgrade, deeply shaken of the tragedy which occurred in the city of Skoplje, expresses its whole hearted condolence praying to God for the souls of the victims.

President
Holy Council of Bishops
AEM and Serbian Patriarch
Gherman."

7

While signing the minutes of the preceeding meeting His Holiness Serbian Patriarch Sir Gherman informs Holy Council of Bishops what has been done for opening some classes in the Seminary of St. Sava in Sremski Karlovci.

8

Afterwards His Holiness suggests that the report of the commission of Holy Council of Bishops be read of whose duty it was to investigate the case of His Grace Bishop

Dionisije. His Grace Bishop of Dalmacia Sir Stefan reads the report of the commission as follows:

"The commision composed by the Holy Council of Bishops at the afternoon meeting on the day of July 26, 1963 examined the material in regard to the work of His Grace Bishop Dionisije after his suspension and constitutes:

1. That Bishop Dionisije received the decisions of the Holy Council of Bishops and Holy Synod under Synod number 1664 / minutes 188 of his removal from the Diocese, which is clearly seen by his answers sent to Holy Synod and to other church institutions and other official persons in America;

2. That he does not recognize these decisions, and continues to function as the Diocesan Bishop;

3. That he does not recognize the Court of the Holy Synod of Bishops and that he puts the church-lay sabor above the Holy Council of Bishops and Synod;

4. That he refused, as suspended, to give up his duties to the newly appointed administrator (letter of Bishop Dionisije to "Plenum" of June 6, 1963);

5. In his letter number 194 of June 3, 1963 he confirms the receipt of the letter Synod number 1664/minutes 188 and declares, that he does not recognize the decision of the Holy Council of Bishops and Synod of the division of this one Diocese into three new dioceses; nor his suspension and removal to administer the diocese, niether is he willing to give up his duty to the appointed administrator;

6. That with his circular of June 12, 1963 called all clergy and all church-school communities not to obey the orders of the administrators of the three new dioceses which appointed Holy Synod of Bishops;

7. Although he was canonically suspended, he calls clergy and people not to receive the investigating commis-

sion of the Holy Synod of Bishops, to which he forbids to travel throughout the diocese and to serve;

8. That he does not recognize the court's jurisdiction of the Holy Synod of Bishops, but only the court of the people there (circular of 6-28-1963);

9. That with his second circular under the heading "American-Canadian Serbian church triumvirate" of June 28, 1963 in which Bishop Dionisije states verbatim: "I am calling to all Serbs in the world to stand with us together in this sacred Serbian national fight.

I am accepting under the protection of this diocese, all church communities from the entire world, who do not wish to submit themselves to Belgrade, and to pro-Tito decisions of Patriarch Gherman and to the unlawful decisions of the Holy Council of Bishops;"

10. Although he is suspended and under prohibition, Bishop Dionisije with his letter of June 7th, 1963 absolves archimandrite Firmilijan of his duties as Bishop's vicar, because of his obedience to the decisions of the Holy Synod of Bishops;

11. Also with his letter of June 7, 1963 he proceeded the same with Very Reverends Miodrag Mijatovich and Miodrag Djurich, because the agreed with the position of archimandrite Firmilijan; and

12. That with his letter of June 14, 1963 even tho under suspension he absolved Very Rev. Dusan Klipa of his duties as Bishop's vicar, because he obeyed the decision of the Holy Synod of Bishops, etc.

In regard to all the above mentioned the Commission established, that the case appeared in totality from article 111 in connection with the article 104, section 1 and 4 of the Constitution of the Serbian Orthodox Church and suggests to the Holy Council of Bishops for the decision the following:

"Holy Council of Bishops of the Serbian Orthodox Church establishes, that His Grace Bishop Dionisije trampled his Episcopal oath and lost the benefits from article 104, section A and G of the Constitution of the Serbian Orthodox Church forseen for the position of the Diocesan Bishop, and on the basis of the article 111 of the Constitution of the Serbian Orthodox Church, absolves him of the duties as the Diocesan Bishop, and the Diocese of Midd-Western American proclaims vacant."

Belgrade
July 27, 1963

Members of the commission:
Metropolitan of Montenegro, Danilo
Bisop of Sumadija, Valerijan
Bishop of Zica, Vasilije
Bishop of Banat, Visarion."

After the letter has been read the floor is taken by His Grace Bishop of Raska-Prizren Sir Pavle and says, that toward Bishop Dionisije we aught to refer in the spirit of the lawful regulations of our Church. He thinks that the suggested decision of the commission is prematured, and it would be necessary to wait peacefully until Bishop Dionisije's canonical faults are confirmed, because of which the Holy Synod of Bishops placed him under court and prohibition.

In regard to this question a discussion took place in which participated His Grace Bishop of Zica Sir Vasilije, Bishop of Banat Sir Visarion, Bishop of Gornji Karlovac Sir Simeon and Bishop of Dalmacia Sir stefan.

After the discussion His Holiness Serbian Patriarch Sir Gherman proposes a vote be taken because in regard to this question a unity was not achieved. He proposes a vote "for" or "against" of the proposed report of the commmission. Upon the execution of the voting His Holiness Serbian Patriarch Sir Gherman announces that for the proposal of the commission voted 14, against 2 and 2 blan ballots.

His Holiness Serbian Patriarch Sir Gherman makes this known to the Holy Council of Bishops and proclaims that the proposal of the commission is accepted.

9

Afterwards His Holiness Serbian Patriarch Gherman says, that with this we finished only one part of the job. In order to complete the matter he proposes that the two newly created dioceses: Midd-Western American and Western American be filled by electing two Bishops.

Asking for the floor is His Grace Bishop of Raska—Prizren Sir Pavle and says:

"When the Episcopal oath is in question, and reads only that part of this oath which obligates all Bishops to obey canons and to respect the same. He cites the rules of the echumenical and regional councils and rules of the holy fathers that a person with sin cannot be consecrated.

His Holiness adjourns the meeting and asks the members of the Holy Council of Bishops to proceed in the Patriarchal church for the invokation of the Holy Spirit as is customary before the election of a Bishop.

After the service of invoking the Holy Spirit His Holiness Patriarch states that before the members of the Council lays important and serious task. Let us pray to God to help us so that we will bring forth a correct decision. He says, even on the past session of the Holy Council of Bishops a question was raised to elect new Bishops, but then it was not solved. From then up till today many things happened that the situation imposes upon us to solve this question by all means. I myself hesitated for a long time, thought and prayed to God to help me, and at the end I came to the conclusion which I now wish to announce. What I am doing I do on the basis of my conscience, and I am conscientious of my respinsibilities before the Serbian Orthodox Church, Serbian people and St. Sava.

I am proposing that for the two newly created American dioceses, be elected archimandrite Firmilijan Ocokoljich and archimandrate Gregory Udicki. If brother Bishops agree with this I am proposing that this be accepted as an unanimous decision.

Therefore, this proposal that these two candidates to be elected for Bishops was not accepted unanimously and in regard to that a discussion took place.

In the discussion participated the following:

Metropolitan of Zagreb Sir Damaskin, who is of the opinion that the proposal of the Serbian Patriarch Sir Gherman should be accepted;

His Grace Bishop of Raska—Prizren Sir Pavle says, according to his opinion this proposal is unacceptable, and brings forth his reasons;

Also in the discussion are participating His Grace Bishop of Zica Sir Vasilije, Bishop of Backa Nikanor and Bishop of Zahum—Hercegovina Sir Vladislav

Therefore, there exists different views.

His Holiness Patriarch proposes that there be a vote in regard to this question and for the Midd-Western American Diocese proposes the following candidates: archimandrite Firmilijan Ocokoljich, archimandrite Domentijan Pavlovich, professor of the Seminary in Prizren and protosingelos Milutin Stojadinovich, professor of St. Sava Seminary in Belgrade.

After the execution of the secret balloting His Holiness announces that for archimandrite Firmilijan Ocokoljich voted 17, for archimandrite Domentijan 1 and 4 blank ballots.

His Holiness Serbian Patriarch Gerhman stands and announces that for Midd-Western American Diocese was elected archimandrite Firmilijan Ocokoljich.

10

His Holiness Serbian Patriarch Gherman proposes that the newly created Western-American Diocese be filled for which he nominates the following persons: archimandrite Gregory Udicki, archimandrite Domantijan Pavlovich and protosingelos Milutin Stojadinovich.

After the execution of the secret balloting His Holiness announces that for archimandrite Gregory Udicki voted 20, and 2 blank ballots.

His Holiness Serbian Patriarch Gherman announces that for the Western American Diocese is elected archimandrite Gregory Udicki.

11

His Holiness Serbian Patriarch Gherman proposes that this Council discuss other important problems and questions, for example, of acceptance of new students in Seminaries. Proposes that the Diocesan Bishops receive a greater number of students for the Seminary, then is allowed by the quota of the Holy Synod of Bishops, and these students which make up number that is over the quota, be placed in the monastery as private students until space can be made, at which time they will be transferred back to the Seminary.

In regard to this question a discussion took place in which participated His Grace Bishop of Banat Visarion, His Grace Bishop of Nish Jovan, His Grace Bishop of Zvornik—Tuzla Longin, His Grace Bishop of Gornji Karlovci Simeon, His Grace Bishop of Dalmacia Stefan, His Grace Bishop of Zica Vasilije, Metropolitan of Zegreb Damaskin, Metropolitan of Montenegro and Costal Region Danilo, His Grace Bishop of Raska—Prizren Pavle, His Grace Bishop of Slavonia Emilijan and His Grace Bishop of Sabac—Valjevo Jovan.

After the completion of the discussion the Holy Council of Bishops resolves:

To recommend to the Holy Synod of Bishops to work energeitcally to materialize the decisions of the Holy Council of Bishops of May 1964 for opening new classes in the St. Sava Seminary in Sremski Karlovci.

12

His Holiness Serbian Patriarch Sir Gherman proposes that it would be necessary to send an Epistle to the clergy and people in the U. S. A. and Canada with the signatures of all members of the Holy Council of Bishops.

After the short discussion in regard to this, the Holy Council of Bishops brings forth this decision:

To indebt the Holy Synod of Bishops to compose an epistle in the shortest time which would explain to the people and clergy of the U.S.A. the last decisions of the Holy Council of Bisops, which pertains to the life of the Church there.

13

His Grace Bishop of Sabac—Valjevo Sir Jovan states that he was pleasantly surprised by the humble approach of the president of the Federal Religious Commission, Mr Moma Markovich during the past session of the Holy Council of Bishops, about the completion of the St. Sava Church in Vrachar. In the meantime, during the month of June "Evening News" published an article under a large heading, in which was stated the plans that the Church of St. Sava be converted into a theater for Summer plays, and in winter for skating. On July 25 of this year the same paper printed again another article stating that on the platform of St. Sava Church, a people's library will be built. These arteiles, says Bishop Jovan, caused great comments and bitterness among the faithfuls. He thinks, that the Holy Council of Bishops should not be

indifferent towards this, but to take an energetic interest, even if it is necessary to intercede to the president of the Republic, that the property of the St. Sava Church in Vrachar be returned to the Serbian Orthodox Church, and the work of building of the church be continued.

After a long discussion in regard to this question the Holy Council of Bishops resolves:

To obligate the Holy Synod of Bishops to take energetic action in the State Government for returnig the property of St. Sava Church and to ask permission for the completion of St. Sava Church in Vrachar.

14

His Grace Bishop of Backa Sir Nikanor states that the president of the church community in Trieste D. Vurdelja, issued a pamphlet "Saopstenje", by which he slanders the name of Serbian Patriarch Sir Gherman, Holy Council of Bishops and other priests of the Serbian Orthodox Church. He proposes that a penal action be taken against Mr. Vurdelja.

His Holiness Patriarch thinks that this question be postponed because of the tactical reasons.

Holy Council of Bishops accepts this reason.

15

His Grace Bishop of Sabac—Valjevo asks His Holiness Patriarch to explain wheather the deprture of the Macedonian Metropolitan Sir Dositej in the U. S. A. was with his knowledge and blessings, and waht was the purpose of this journey?

His Holiness Patriarch answers neither Holy Synod nor he gave permission to Metropolitan Dositej for departure to the U.S.A., nor he was officially notifies of this.

After his return from the celebration of the 1000 years of Mount Athos, His Holines says, I heard from Metropolitan Dositej that he has to go to the U.S.A. for the

concecration of the new church in Gary. As soon as I arrived in Belgrade I verbally informed the Religious Commission and begged that the departure of Metropolitan Dositej to the U.S.A. be stoped by all means, because he will spoil our situation there and cause a great damage

The president of the Federal Religious Commission promised that he would examine this case. Later, once again I raised this question in the Federal Religious Commission, and their reply was, sorry, we cannot help you in that, because Metropolitan Dositej already has departed to the U. S. A. On his journey to America, he passed through Belgrade and did not report to us. From private sources we heard that Metropolitan Dositej stayed in some hotel here in Belgrade.

After the discussion in regard to this question, the Holy Council of Bishops resolves:

To ask His Holiness Serbian Patriarch Sir Gherman to gather informations from the U. S. A. of Metropolitan Dositej's stay and his work there, and to see whether his stay brought damages to the interest of the Serbian Orthodox Church.

16

His Holiness Serbian Patriarch Sir Gherman announces that with this the daliy agenda is ended and the work of this special session of the Holy Council of Bishops has been concluded.

After they sang the troparion of St. Sava His Holines Serbian Patriarch Sir Ghernan thanked all the present Diocesan Bishops and concludes the special session of the Holy council of Bishops at 13:05 p. m.

President
Holy Council of Bishops
AEM and Serbian Patriarch
+Gherman, signed

Members:

Metropolitan of Zagreb, Damaskin, signed
Metropolitan of Dabro—Bosnia Nektarije, signed
Metropolitan of Montenegro Danilo, signed
Bishop of Timok Emilijan, signed
Bishop of Nis Jovan, signed
Bishop of Sumadija Valerijan, signed
Bishop of Srem Makarije, signed
Bishop of Backa Nikanor, signed
Bishop of Zica Vasilije, signed
Bishop of Banat Visarion, signed
Bishop of Slavonia Emilijan, signed
Bishop of Zvornik—Tuzla Longin, signed
Bishop of Gornji Karlovci Simeon, signed
Bishop of Zahum—Hercegovina Vladislav, signed
Bishop of Raska—Prizren Pavle, signed
Bishop of Banja Luka
Bishop of Dalmaci Stefan, signed
Bishop of Sabac—Valjevo Jovan, signed

DEFENDANT'S EXHIBIT 250

I hereby certify that the following (7) seven pages are authentic and correct photostatic copies taken (filmed) under my supervision and instruction, from the original minutes of the Holy Council of Bishops of July 26 (13), 1963.

The original minutes are kept in the archives of the Holy Synod of Bishops under my control.

April 15, 1970
Belgrade
Supreme Secretary
Holy Synod of Bishops
Mladen Mladenovic, signed
(Round Seal)

M i n u t e s

1

of the meeting of the special session of the Holy Council of Bishops held July 26, 1963 in the Patriarchal palace in Belgrade, under the presidency of the Serbian Patriarch Sir Gherman.

After the completion of the service of invoking the Holy Spirit in the Patriarchal church, which was performed by His Grace Bishop of Slavinia Sir Emilijan, with the assistance of one archimandrite, one archpriest and one deason, they proceeded to the hall for meetings of the Holy Council of Bishops.

Present are the following Diocesan Bishops: Metropolitan of Zagreb Sir Damaskin, Metropolitan of Dabro-Bosnia Sir Nektarije, Metropolitan of Montenegro and Costal Region Sir Danilo, Bishop of Timok Sir Emilijan, Bishop of Nish, Sir Jovan, Bishop of Sumadia Sir Valerijan, Bishop of Srem Sir Makarije, Bishop of Backa Sir Nikanor, Bishop of Zica Sir Vasilije, Bishop of Banat Sir Visarion, Bishop of Slavonia Sir Emilijan, Bishop of Zvornik-Tuzla Sir Longin, Bishop of Gornji Karlovac Sir Simeon, Bishop of Zahum-Hercegovina Sir Vladislav, Bishop of Raska-Prizren Sir Pavle, Bishop of Banja Luka Sir Andrej, Bishop of Dalmacia Sir Stefan and Bishop of Sabac-Valjevo Sir Jovan.

Absent are Metropolitan of Budim Sir Arsenije, Bishop of Branichevo Sir Hrizostom and Bishop of Eastern America and Canada Sir Stefan

The minutes were taken by His Grace Bishop of Dalmacia Sir Stefan.

His Holiness Serbian Patriarch Sir Gherman opens the special session of the Holy Council of Bishops at 9:30 a.m. and greets all present Diocesan Bishops.

His Holiness says, the sole fact that this is a special session, imposes the tought that this meeting has a great significance. He asks of all the present Diocesan Bishops to approach the importance of the work of this meeting by "eliminating all wordly thoughts," to elevate ourselves to the highest ideals and to seek only that which is of the highest interest of our holy Church and Fatherland. He expresses his belief that all will follow his suggestion and so will work together with him. He prays to God and St. Sava to protect the Serbian Orthodox Church now as before.

1

Afterwards His Holiness suggests the daily agenda for the present meeting:

Proposal of the delegation of the Serbian Orthodox Church from the U.S.A. as it was said in the invitation for this Council

Before we proceed on the daily agenda His Holiness announces:

1) The report of their Graces Bishop of Branicevo Sir Hrizostom and Bishop of Banat Sir Visarion, of the consecration of the newly appointed Bishop protosingelos Stevan Lastavica on July 13 (June 30) 1963 in Aliquippa, USA.

2) Letter from His Grace Bishop of Branicevo Sir Hrizostom that he is unable to attend the special session of the Holy Council of Bishops and his vote he entrusts to the Bishop of Sumadija Sir Valerijan.

3) Letter from the Metropolitan of Budim Sir Arsenie that because of his illness he is unable to attend the special session of the Holy Council of Bishops and his vote he entrusts to Metropolitan of Montenegro and Costal Region Sir Danilo, and

4) Letter from His Grace Bishop of Eastern American and Canadian Diocese Sir Stefan that he is unable to participate in the work of the Holy Council of Bishops and his vote he entrusts to H. H. Serbian Patriarch Sir Gherman.

The Holy Council of Bishops takes into acknowledgment this informations.

Afterwards they pro proceeded on the daily agenda.

2

His Holiness the Patriarch gives the floor to His Grace Bishop of Banat Sir Visarion who verbally submits the report of the consecration of His Grace of the Eastern American and Canadian Diocese Sir Stefan and of his meeting with His Grace Bishop Dionisije. Bishop of Banat Sir Visarion tells that the delegation had numerous incidents and difficulties after their arrival in the U. S. A. so that the question was raised where and how to perform the consecration of the newly appointed Bishop Sir Stefan. He says, that the majority of the priests and people are for the decisions of the Holy Council of Bishops, and one small group og immigrants with Drashkovich at the head declared themselves against the decisions of the Council and tryed to avert the consecration of Bishop Stefan and the resolution of the decisions of the Holy Council of Bishops. Very Rev. Vlastimir Tomich from Aliquippa, organized the consecration in Aliquippa where he is the parish priest. The consecration was performed on July 13, 1963 in the presence of a great number of faithfuls in a very festive way. A small group of the Draskovich people did not succeed in averting the consecration. After the consecration of Bishop Stefan a very festive banquet was given in the premises of a school at which attended 500 persons. At the banquet a general satisfaction and harmony was shown among the Church and national or-

ganizations in regard to the decisions of the Holy Council of Bishops. Newly appointed Bishop Stefan very succesfully presented himself to the people and clergy. Bishop of Banat Sir Visarion points out, that the Serbian Orthodox Church received, in the person of Bishop Stefan a diligent and worthy Bishop.

3

As soon as the delegation arrived in the U. S. A. it tried to make contact with Bishop Dionisije. After some difficulties in trying to arrange a meeting with him, the meeting was held on July 5th of this year in Libertyville. Because His Grace Bishop Dionisije didn't agree that the meeting be held in the monastery of St. Sava, he suggested that the meeting be held in the "Indian Club". Bishops-delegates of the Holy Synod of Bishops had some dificulties, because Bishop Dionisije tried to avoid submission to the hearing and evaded in all possible ways his matter, asking that all charges be submitted to him and he will give written reply on the same. Because he agreed a minutes be made he declared that he remain on all his former declarations and decisions, before and after the session of the Holy Council of Bishops and that the decisions of the Holy Council of Bishops and Synod of the division of the American-Canadian Diocese and the decisions that pertains to him personally he does not recognize. At the end he refused to sign the minutes of the hearing.

Bishop of Banat Sir Visarion further informs the Holy Council of Bishops, that the majority of the clergy and people in the U. S. A. extends their support to the decisions of the Holy Council of Bishops and Synod, as do the other Orthodox Churches and the Anglican Church. He says, that Bishop Dionisije tries in all possible ways to remain in power and to avert the realization of the Council's decisions. The situation is very difficult for the clergy, because there are cases when some church congregations

fired their priests. He proposes that Bishop Dionisije be taken from the position of active Bishop and be put on pension; to fill the two newly created Dioceses and to the three new Bishops be given the possibility for full independence to organize a Church life in their entrusted Dioceses. He considers that after this the life of the Serbian Orthodox Church in the U.S.A. will be normalized.

4

Afterwards His Grace Bishop of Banat Sir Visarion reads the following documents:

1) The letter of Bishop Dionisije to archimandrite Mr. Firmilijan Ocokolich of June 7th, 1963;

2) The letter of Bishop Dionisije of June 6, 1963 to Diocesa Council of the Diocese of America and Canada

3) The Letter of Bishop Dionisije to His Holiness Serbian Patriarch Gherman and to all Diocesan Bishops of June 3, 1963;

4) Circular of Bishop Dionisije so called "For Liberty of the Serbian Orthodox Church" of June 3, 1963;

5 The circular of Bishop Dionisije to all clergy and people of June 4, 1963;

6) The circular of Bishop Dionisije "For the church rights of the free Serbian immigration and of the American and Canadian Serbs" of June 12, 1963;

7) The circular of Bishop Dionisije of July 15, 1963;

8) The statement of Dr. Uros Seferovich, Vice president of the Diocesan Council, in regard to the call of the Diocesan Council;

At 12:10 p.m. His Holiness Patriarch adjourns the meeting, and calls for continuation of the same at 5:30 p.m.

Exactly at 5:30 p.m., after the prayer "O Heavenly King", His Holiness opens the meeting.

It continues with further reading of documents which started at the morning meeting.

The following documents are read:

9) The circular letter of Executive Board of Priests Association—to priesthood of American and Canadian Diocese of July 18, 1963;

10) The letter of V.Rev. Miloje Nikolich, parochial priest and Bishop's Deputy from London to Bishop of Branicevo Sir Chrisostom of July 8, 1963;

11) The letters of Bishop Sir Dionisije to V.Reverends Miodrag Mijatovich, Miodrag Djurich, Milan Brkich and archimandrite Firmilian Ocokoljich of June 7, 1963;

12) Three letters of Bishop Dionisije to V. Rev. Dusan Klipa of June 13 and 14, 1963, and to Executive Board of Priests' Association of June 14, 1963;

13) The letter of Nebojsa Mandich from Chicago of July 5, 1963;

14) The statements of Triso Simich and archimandrite Firmilian Ocokoljich of July 15, 1963;

and 15) The letter of Rev. Vladimir Milinkovich with statements of his wife of July 18, 1963.

After this His Grace Bishop of Banat Sir Visarion reads the report and proposal of delegation sent to Holy Bishops Synod of July 20, 1963.

On the motion of His Grace Bishop of Raska-Prizren Sir Pavle there was read the occusation of Bishop Dionisije against the work of investigating commission of July 11, 1963.

His Grace Bishop of Zahumlje-Hercegovina Sir Vladislav asks that the report is read with proposals of administrators: archimandrite Firmilian Ocokoljich, archimandrite Gregary Udicki and V.Rev. Stevan Lastavica of June 10, 1963, sent to Holy Bishops Synod immediately after the receipt of decisions of Holy Bishops Assembly. It is established that this report is not found in the archive for the delegation took it wit them to U.S.A. and it isn't returned up to day.

His Grace Patriarch finally proposes that a commission should be organized which would study the entire subject and submit a report and proposal to Holy Bishops Assembly.

Assembly accepts the proposal and His Holiness proposes the following as members of Commission: His Grace Metropolitan of Crna Gora-Primorje Sir Danilo, His Grace Bishop of Sumadija Sir Valerijan, His Grace Bishop of Zica Sir Vasilije and His Grace Bishop of Banat Sir Visarion.

Assembly accepts even this proposal.

At 7:05 p.m. His Holiness Patrirch adjourns the afternoon's meeting and next one calls for July 27th, 1963, at 9 a.m.

President
of Holy Bishops Assembly
+AEM and Serbian Patriarch
GHERMAN

Members:
Metropolitan of Zagreb, Damaskin
Metropolitan of Dabar-Bosnia,
Metropolitan of Crna Gora-Primorje,
Bishop of Timok, Emilian
Bishop of Nis,
Bishop of Sumadija,
Bishop of Srem, Makarije
Bishop of Backa,
Bishop of Zica,
Bishop of Banat,
Bishop of Slavonija,
Bishop of Zvornik-Tuzla,
Bishop of Gornji Karlovac,
Bishop of Zahumlje-Hercegovina,
Bishop of Raska-Prizren, Pavle
Bishop of Banja-Luka,
Bishop of Dalmatia,
Bishop of Sabac-Valjevo,

DEFENDANT'S EXHIBIT 254

I certify herewith that the following (8) eight pages are true and correct copies of the Minutes of the Holy Assembly of Bishops dated March 5 (February 21) 1964, and that these copies were made unded my supervision and guidance.

The original Minutes is presently in the archives of the Holy Episcopal Synod and under my control.

Belgrade, April 15, 1970 Secretary General
Holy Episcopal Synod
Rev. Mladen Mladenovic

(Round Seal)

MINUTES

VI

of the regular meeting of the Holy Assembly of Bishops on March 5 (February 21) 1964 in the Patriarchate in Belgrade. Chairman: His Holiness Serbian Patriarch Gherman.

All the bishops participated at this meeting except East-American and Canadian Bishop Stefan and Mid-West Ameircan Bishop Firmilijan and West-American Bishop Grigorije.

The minutes at this meeting were taken by His Grace Bishop of Dalmatia Stefan.

34

After prayer "Heavenly King" was said, His Holiness Serbian Patriarch Gherman oppened the meeting at 9 o'clock.

When asked by the chairman the secretary of the Holy Assembly of Bishops His Grace Bishop of Sabac Jovan reads the minutes of the V meeting of the Holy Assembly of Bishops.

The minutes is accepted without a comment and signed.

35

His Holiness Patriarch Gherman suggested the following agenda:

1. Report about non-canonical consecretion of Rt. Rev Irinej Kovacevic (AS No. 2/964), and
2. Discussion about offenses of His Grace Bishop Dionisije Milivojevic.

The Holy Assembly of Bishop accepts the suggested agenda.

36

AS No. 13

Before starting with the agenda, His Grace Bishop of Branicevo Hrizostom reads his report of March 5, 1964, in connection with an article which appeared in the daily "Politika" today, titled: "Monastery Manasija will become a concert hall".

After this report was read His Holiness Serbian Patriarch Gherman suggests that a decision should be reached now, rather than sending the matter to an appropriate committee.

The Holy Assembly of Bishops accept this suggestion and passes the following decision:

In connection with an article in the daily "Politika" of March 5, 1964, titled: "Monastery Manasija Will Become A Concert Hall", send a memorandum to the Federal Commission for Religious Affairs and strongly demand that the Tourist Association is not permitted to use the monastery as a concert hall.

37

AS No. 2

The Holy Episcopal Synod has submitted a Report, No. 3861 from 1963/min. 79 of February 25, 1964, prepared by His Grace East-American and Canadian Bishop Stefan about non-canonical consecreation of Rt. Rev. Irinej Kovacevic.

In connection with yesterdays discussion about this subject the Holy Assembly of Bishops passes the following decision:

1. The Holy Assembly of Bishops has found that the so called "Church Peoples Assembly", which took place from November 12 to November 14, 1963, in Libertyville (U.S.A.) is *illegal,* because it is contrary to Par. 16 and 22

of the Constitution of the Serbian Orthodox Diocese for the United States and Canada—Bishop Dionisije participated and presided although he was rightfully suspended by the Holy Assembly of Bishops, ASNo. 42/min.2 of July 27, 1963, in connection with Par. 111 and 104, art. a) and g), Constitution of the Serbian Orthodox Church

II The Holy Assembly of Bishops declares that the so called "election" for "auxiliary bishop" of Rt. Rev. Irinej Kovacevic, which took place at that assembly is *non-canonical, contrary to Constitution* and *nil,* because apostolic rule 1 and 4 of I Ecumenical Council prescribes that bishops are elected by Council of Bishops. Par. 105 of Constitution of the Serbian Orthodox Church states that *"diocesan and vicar bishops are elected by the Holy Assembly of Bishops under chairmanship of the Patriarch"*, and, Par. 9 of Constitution of the Serbian Orthodox Diocese for United States and Canada states that *"bishops in the United States and in Canada are appointed by the Holy Assembly of Bishops of the Serbian Orthodox Church."*

III Also, the Holy Assembly of Bishops declares that the so called "consecration" of Rt. Rev. Irinej Kovacevic for bishop, assisted by two self-styled Ukrainian "bishops", in Libertyville on December 7, 1963. These two bishops are not recognized by any Orthodox church. All his oficial acts are nil.

The bishop in charge is instructed to initiate a court action against Rt. Rev. Irinej Kovacevic.

IV Decisions of the Libertyville assembly of November 1963 to break away from the Mother Church and this non-canonical "consecretion", which was done by the people who together with Bishop Dionisije did not even allow Serbian clergy to perform religious services. Thereby for the first time in history a group of Serbian sons created

a schismatic organization, which inflicted a horrible wound in the body of the martyred St. Sava's Orthodoxy and broke away from one, holy and apostolic Church.

V All autochepalous orthodox churches shall be informed of this decision of the Holy Assembly of Bishops.

33

ACNo. 1

The Holy Episcopal Synod by its act No. 357/min. 78 of February 25, 1964, presents the case of His Grace Bishop Dionisije Milivojevic.

His Grace Bishop of Sumadija Valerijan reads the report of Legal Committee and an act of the Holy Episcopal Synod No. 357/964, which shows that the Holy Episcopal Synod has exhausted its authority from Par. 70 Art. 35/b of Constitution of the Serbian Orthodox Church, and the whole case of the accused Bishop Dionisije Miliovojevic presents to the Holy Assembly of Bishops. The Holy Episcopal Synod asks for a final verdict based on 6 rules of the II Ecumenical Council, 14 and 15 rules of the Antioch Council, rule 12 of the Cartige Council and Par. 7 and 69, Art. 27/B Constitution of the Serbin Orthodox Church.

After hearing, the Holy Assembly of Bishops, decides:

Recommendation of the Holy Episcopal Synod and the Legal Commission that the Holy Assembly of Bishops at its plenary meeting pronounces a final verdict in regard to the offenses of His Grace Bishop Dionisije Miliovojevic, according to canon 6 of II Ecumenical Council, canon 12 of the Cartige Council and Par. 69 Art. 27/B of Constitution of the Serbian Orthodox Church, is accepted.

His Holyness Patriarch Gherman moves that the indictment against Bishop Dionisije Milivojevic be read and recommendation for inclusion of new offenses into the

indictment of Bishop Dionisije, concerning events of November 13 and 14, 1963 which had led to creation of completely autonomous Diocese for the United States and Canada, which broke away from the Serbian Orthodox Church, and non-canonical election and consecretion of Rt. Rev. Irinej Kovacevic for bishop, prepared by the Holy Episcopal Synod appointed church prosecutor His Grace Bishop of Zica Vasilije.

The Holy Assembly of Bishops accepts this and indictment is read.

After the indictment was read His Grace Bishop of Raska—Prizren Pavle moves that the report of the fact-finding commission, appointed by the Holy Episcopal Synod No. 1989/min. 265 of 1963 to examine complaints against His Grace Bishop Dionisije be read.

This is accepted by the Holy Assembly of Bishops and the report of the fact-finding commission is read by His Grace Bishop of Branicevo.

After it was established that the accused Bishop Dionisije Milivojevic has had refused to answer the indictment, which he has returned stating that he did not recognize any decisions of the Holy Assembly of Bishops and the Holy Episcopal Synod, His Holiness Patriarch Gherman requests from the Holy Assembly of Bishops to decide whether the accused Bishop Dionisije Milivojevic is guilty, in accordance with Par. 71 of Rules and Procedure for Church Courts of the Serbian Orthodox Church.

The Holy Assembly of Bishops unanimously answer: he is guilty!

After that His Holiness Patriarch Gherman asks each member, from the youngest to the oldest, of the Holy Assembly of Bishops, to declare separately: is the accused Bishop Dionisije Milivojevic guilty? On separate calls

from His Holiness Patriarch Gherman, each member of the Holy Assembly of Bishops, from the youngest to the oldest, stands up and declares: guilty!

His Holiness Patriarch Gherman now asks the Holy Assembly of Bishops: does it approve the punishment for Bishop Dionisije as it was recommended by the church prosecutor His Grace Bishop of Zica Vasilije that Bishop Dionisije be deprived of his bishopric title.

The Holy Assembly of Bishops unanimously answers: we approve the recommendation of the church prosecutor that Bishop Dionisije be deprived of his bishopric title.

His Holiness Patriarch Gherman requests that each member of the Holy Assembly of Bishops, from the youngest to the oldest, declares whether he approves the punishment recommended by the church prosecutor His Grace Bishop of Zica Vasilije that the accused Bishop Dionisije Milivojevic be deprevied of his bishopric title. On separate calls by His Holiness Patriarch Gherman, each member of the Holy Assembly of Bishops, from the youngest to the oldest, stands up and declares: I approve the punishment recommended by the church prosecutor that Bishop Dionisije Milivojevic be deprived of his bishopric title.

In accordance with the above the Holy Assembly of Bishops unanimously and finally decides:

According to rule 6 of II Ecumenical Council, rules 14 and 15 of the Antioch Council, rule 12 of the Cartige Council and Par. 7 and 69, Art. 27/B Constitution of the Serbian Orthodox Church, Bishop Dionisije Milivojevic is punished, according to Par. 216, Art. 8 Constitution of the Serbian Orthodox Church and Par. 90 of Rules and Procedures for Church Courts of the Serbian Orthodox Church is deprived of his bishopric title, he is taken off the Roster of Serbian Orthodox Bishops and returned to the ranks of laity under his lay name Dragoljub, for the offenses against our church hierarch, and schism, his behavior unbecoming his title and position, and insubordination regarding lawful acts of his superior church authorities (Par. 214/a Art. 1, 2 and 3, Constitution of the Serbian Orthodox Church). Since this decision has been passed unanimously by all members of the Holy Assembly of Bishops, it is in accordance with rule 15 of the Antioch Council final and there is no appeal.

His Holyness Patriarch Serbian Gherman, as presiding member and in accordance with Par. 71 of Rules and Procedures for Church Courts of the Serbian Orthodox Church, designates the secretaries of the Holy Assembly of Bishops, His Grace Bishop of Dalmatia Stefan and His Grace Bishop of Sabac-Valjevo Jovan and His Grace Bishop of Zah.—Hercegovina Vladisalv and of Branicevo Hrizostom, to prepare the judgment in accordance with this decision.

His Holyness Patriarch Gherman concludes the todays meeting at 11:45 and schedules the next meeting for March 6 (February 22) at 9 a.m.

Remark: The judgment is at the end of this Minutes.

President
of the Holy Assembly of Bishops
+ Gherman

Members: Metropolitan of Zagreb Damaskin, Metropolitan of Dabro-Bosanski (signature illegible), Metropolitan of Crnogorsko-Primorski (signature illegible), Bishop of Timok (signature illegible), Bishop of Nis (signature illegible), Bishop of Sumadija (signature illegible), Bishop of Srem (signature illegible). Bishop of Backa (signature illegible), Bishop of Zica (signature illegible), Bishop of Branicevo Hrizostom, Bishop of Banat (signature illegible)

DEFENDANT'S EXHIBIT 255

I certify herewith that the following (11) eleven pages are true and correct copies of the Minutes of the Holy Assembly of Bishops, dated August 31 (September 13), 1921, and that these copies were made under my supervision and guidance.

The original Minutes is presently in the archives of the Holy Episcopal Synod and under my control

Belgrade, April 15,1970 Secretary General
Holy Episcopal Synod
Mladen Mladenovic

(Round Seal)

MINUTES

XVII.

of the Holy Assembly of Bishops of the Serbian Orthodox
of the regular meeting
Church, August 31/September 13, 1921
in Sremski Karlovci

Present: President. H. H. Patriarch, all members and Secretary of Serbian Patriarchate

The Minutes of the regular XVI meeting were read, accepted and signed, with one addition—resignation of Dr. Vikentije Vujic was acknowledged, but everything else from decision has been omitted.

• • •

P.E.G. Jefrem, as spokesman for Special Commission for church in America, presents the following proposal:

"Report of P.E. of Ohrib Nikolaj pays special attention to constant written and oral requests, and especially before the delegate of the Holy Assembly of Bishops Nj.P.G. Nikolaj of Ohrid, manifested by strong desire and unquestionable need of the Serbian clergy and people in North America, to get under jurisdiction of the Serbian Church. Even now bond is very strong and the Serbian Church has

already, through individual bishops, taken spiritual care of churches and the Serbian Orthodox faithful, by sending priests to parishes and providing these priests with necessary authority and spiritual needs. Special point is that these parishes are actually born-away part of our Church. The Holy Assembly of Bishops decides:

1) To keep all Orthodox Serbs in North America under protection and to create a more organic and closer connection with the Serbian Church;

2) Therefore, it deems necessary to found in North America a Serbian Orthodox Diocese, to appoint a Vicar who would organize this diocese and establish control in this region in subserviance to Serbian Patriarch and supreme authority of the Holy Assembly of Bishops and the Holy Episcopal Synod, or a special delegate of the Holy Assembly of Bishops. When the diocese is organized and secured, appoint a regular canonical bishop.

4) Diocese would encompass all Serbian Orthodox parishes, all Orthodox Serbis in America. The Serbian Church as Mother Church has the authority establish diocesan administration by Regulation, to specify relationship between clergy, parishes and churches on the one side, and the Serbian Church on the other side. The Holy Assembly of Bishops will have to approve this Regulation.

This relationship should be based on Holy Canons, which clearly explains the meaning and content of bishopric jurisdiction in regard to internal administration. As for the financial side to preserve necessary rights and guaranteed duties of church parishes and their organs.

The second relationship deals with dependancy of the Diocese toward the Metropolitanate, which is today represented in the Serbian Patriarchate. More detailed regulations should be passed by the Holy Episcopal Synod.

5) Salary of the Vicar and diacons will be secured from state treasury.

Maintenance of the finally established diocese will be dealt with in a most beneficial manner. Expenses of delegates will also fall on the state.

6) In a case of contraversy with the Russian Orthodox Church, in regard to property, an attempt should be made to settle the problem with the official representatives of the Russian Church.

V.M.G. Varnava makes oral statements which shed more light on this question, pointing out that 16 out of 30 priests have signed request for bishop. P.E.G. Nikolaj explains that the only reason for such situation is, that he could not get everywhere, or wait for signature of all priests. But he was assured in the East and in the West that all priests support this idea.

He agrees with the opinion of the Commission and suggests that bishop should be accompanied by a deacon, if that is feasible.

The Holy Assembly of Bishops accepts proposal of the appointed Commission and decides to send a delegate of the Holy Assembly of Bishops, one bishops and one diacon.

Right after that P.E. of Ohrid Nikolaj is elected as delegate.

After this the meeting was adjourned.

President, Archbishop of Belgrade and Serbian Patriarch Dimitrije.

Members:

Metropolitans: Dabro-Bosanski Petar, Banjalucki and Bihacki Vasilije, Zvornicko-Tuzlanski Ilarion, Skopljanski Varnava.

Bishops: Pakracki Miron, Temisvarski Georgije, Budimski Georgije, Gornjokarlovacki Ilarion, Niski Dositej, Ohridski Nikolaj, Timocki Irinej, Rasko-Prizrenski Mihailo, Bitoljski Josif, Zletovske-Strumicki Serefim.

Secretary of Serbian Patriarchate, Dim J. Rosu

DEFENDANT'S EXHIBIT 258

To:
Their Graces
Bishop of Branicevo Mister Hrizostom and
Bishop of Banat Mister Visarion

From: Serbian Eastern Orthodox
Diocese for the U.S.A. and
Canada
Serbian St. Sava Monastery
Libertyville, Ill., U.S.A.

Your Graces, 5. juli, 1963

We have received the letter of the Holy Bishops' Synod, ref. no. 1986/min. 265 of June 13, 1963, which we acknowledge.

We have also received your mutual letter from Pittsburgh, dated June 30, 1963, informing about your intention to come to Libertyville and visit us, i.e. to visit Mister Dionisije, the Mid-west American Diocese Bishop, and I am not the one, and never have accepted this title given to me, nor was I asked to agree to though it is a usual practice and law in the Serbian Eastern Orthodox Church. In spite of all that I acknowledge the receipt of your letter.

In connection with your coming we have informed our people and issued a letter which you kindly find attached hereto.

Personally, we state:

We did not try to avoid any responsibility. We asked for the accusations to be duly presented to us in order to be able to reply to them. So far we have not received them.

If we get them from you we will try to answer the same. Verbal accusations and questionings we do not accept and consider illegal.

We protest against the prejudged decision of the Holy Bishops' Synod about the forbidance of carrying out clerical duties and dissmisal of managing the Diocese, because by such mentioned decision the Holy Bishops' Synod undoubtedly broke the Constitution of the Patriarchate as well as the Penal Rules of the Serbian Eastern Orthodox Church.

We ask you to give instructions to the nominated administrators, Very Reverend Scokoljic and Hdicki as well as to protosyngelos Stefan Lastavica to withdraw their orders to the clergy and the communities against the Church-National Assembly; about correspondence with the Diocese; financial payment rates, etc. because such orders made a great damage to this Diocese and the Church and shall be held responsible to the State Laws of this country as well. They threat every priest who is not with them shall be dissmised.

We have rejected the deviding of the Diocese into three new ones because such a decision was made without consulting the people here though the people is supposed to have to keep those Bishops and Dioceses. We have refused imposing of the bishopic without consultation with the people.

As a result of the fact we have received numerous protests against your coming to the Monastery St. Sava; against your receiving in the Monastery; we are sorry not to be in a position to receive you in the Monastery, but in any other place: hotel, restaurant or alike.

Your Graces brother in Christ

Serbian Eastern Orthodox Bishop for
America and Canada
D i o n i s i j e
(signed)

POST-TRIAL MOTIONS, OPINIONS AND ORDERS

IN THE
CIRCUIT COURT OF LAKE COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA, a religious body, et al., Plaintiffs,	No. 63-1644	Consolidated No. 63-1644
vs.		
DIONISIJE MILIVOJEVICH, et al., Defendants.	No. 63-2312	

MEMORANDUM DECISION
PREAMBLE

This cause has a lengthy history which involves a bitter religious and legal controversy and an involved tangle of pleadings and exhibits and scholarly briefs, and an extremely lengthy bench trial with evidence presented before this Trial Judge. We intend to condense this Opinion as all evidence, law of the case and historical background are well known to the parties and counsel to the cause.

The parties named in the caption of this Decision for convenience will herein sometimes be referred to as: The Plaintiffs as "Mother Church" and the Defendants as "American Diocese." The former has its Holy See in Yugoslavia and the latter in or near Libertyville, Lake County, Illinois.

These cases were consolidated at the trial court level and were summarily disposed of by the late Judge Philip

Yager in favor of said Defendants. On appeal by the Mother Church as Appellants, a comprehensive review of the pleadings and supporting documents and the law applicable to the situation appears in the Learned Opinion and Supplemental Opinion written by Appellate Court (now Illinois Supreme Court) Justice Charles Davis, which appears in 72 Ill. App. 2d 444 (1966). In this (the Davis Opinion), the Yager trial court summary judgment orders were reversed.

We quote from the Davis Opinion: (Pages 464 & 465)

> "• • • be presented to the trial court on remandment in an orderly and complete hearing of these consolidated cases on their merits. If, upon proper pleadings, competent testimony and other valid evidence, the appellees can present a case which would warrant and justify the trial court—a civil court—in not accepting a pertinent ecclesiastical decision or decisions, we do not mean to be understood to preclude them from doing so. Our purpose in remanding the case is to afford all of the litigants a complete and full hearing on the merits pertaining to the many issues and questions involved. The factual background of this case is indeed significant, but it is not without dispute, as is evidenced by the numerous conflicting representations made to the court through extensive pleadings, depositions, affidavits, and briefs.
>
> "The legal conclusions reached in our opinion are based upon the facts as they appear to us as the case stands at this juncture. Should a full hearing develop factual matters of significance, different from those upon which this opinion is based, then our opinion would be limited accordingly."

The Appellate Court Decision quoted above has been our reason for the extensive evidence taken by us, chiefly to determine whether or not the decision of the Mother Church

to defrock Bishop Dionisije was "tainted with fraud, collusion, or arbitrariness" in which case, only, the ecclesiastical decision need not be accepted by this secular court. On page 457 of the Davis Opinion we find a reference to the cases of Watson and Gonzalez and the statement that:

> "If a civil right depends upon an ecclesiastical matter, the civil court must take the ecclesiastical decisions as it finds them. It is only where the decision of a church tribunal is tainted with fraud, collusion or arbitrariness that the decision need not be accepted by the secular court."

And on page 456 of the said Davis Opinion again is similar legal authority.

There are two existing corporations with which we are concerned. In 1935, a new religious society was incorporated under the laws of Illinois called "Serbian Eastern Orthodox Diocese for the United States of America and Canada." Its Constitution was substantially the same as that of the first corporation and it was likewise approved by the Serbian Orthodox Church of Yugoslavia. (Previously such society, incorporated in Illinois in 1927. had been allowed to lapse.) As is stated in the last paragraph on page 450 of the Davis Opinion:

> "• • • the Constitution of the Diocese. [the religious corporation] It states that the Diocese 'is considered ecclesiastically—judicially as an organic part of the Serbian Patriarchate in the Kingdom of Yugoslavia.' Article 2 provides that 'All statutes and rules which regulate the ecclesiastical—canonical authority and position of the Serbian Orthodox Church in the Kingdom of Yugoslavia are also compulsory' on the Diocese 'with the exception of specific cases which must be formulated with regard to local circumstances in accordance with ecclesiastical and judicial principles.'

> "Article 3 of this [Diocesan] Constitution provides that the jurisdiction of this Diocese includes the entire political territory of the United States and Canada, which by its geographical location enjoys 'full administrative freedom' under which 'it can independently regulate and rule the activities of * * *'" (various activities described).

In 1945, said Religious Corporation under the leadership of Bishop Dionisije formed an Illinois Corporation under the general not-for-profit corporate laws to which the assets of the Religious Corporation would be transferred. The name of this Corporation was, and is, "Serbian Orthodox Monastery of Saint Sava." The reason for this move was the Bishop's fear that the Mother Church would fall under the domination of the Communist government in Yugoslavia. The Bylaws of the non-profit corporation formed in 1945 provide for it to be an autonomous Serbian Church institution; and further provide that it possesses its own property which cannot be disposed of, sold, mortgaged or otherwise conveyed by any Serbian Church authority, without the consent and approval of the Diocesan Council, headed by the Bishop and the Diocesan Church Conventions.

On May 10, 1963, the Holy Episcopal Synod of the Mother Church in Yugoslavia first suspended Bishop Dionisije, and then he was defrocked on March 15, 1964 by the Holy Episcopal Council consisting of the Patriarch, Metropolitan, and the Diocesan Bishops of Yugoslavia. In that intervening interval, on May 17, 1963, said Synod of the Mother Church had disbanded the American-Canadian Diocese and in place thereof established three new dioceses, including not only all of the same, but also an additional international territory; and on said date, three temporary

administrators were appointed for said respective new dioceses. Firmilian Ocokoljich on May 10, 1963, was first appointed as Administrator of the Diocese to replace the suspended Bishop Dionisije, then as temporary Administrator of one of the three new dioceses, and next on July 27, 1963, as Diocesan Bishop of one of the three newly created dioceses, and only in this sense, to replace Bishop Dionisije.

We believe we must decide these issues:

NUMBER ONE ISSUE: Was the decision to defrock Bishop Dionisije made by the Mother Church in Yugoslavia tainted with fraud, collusion or arbitrariness so that the decision need not be considered as binding upon this, a secular court?

NUMBER TWO ISSUE: Has any evidence, oral and documentary, of substance been heard by this Court which should induce us to rule contrary to that part of Justice Davis' Opinion (pages 451 & 458) that the Religious Corporation of the American Diocese has "full administrative freedom" and autonomy over its local Constitution, although changes and amendments to the Constitution can only be consummated "with the approval of the Holy Bishops' Assembly of the Serbian Patriarchate"?

NUMBER THREE ISSUE: Has any appropriate evidence been adduced in this Court which persuades us to change or comment upon the Justice Davis Opinion concerning the "trust" aspects of the "Saint Sava" owned property?

NUMBER FOUR ISSUE: Has this Court any viewpoint or comment regarding the opinion of Justice

Davis (pages 458, 459 & 462) declaring the action of the Mother Church in dividing the American Diocese into three new dioceses, with a changing of boundaries and bishops, to be beyond the power of the Serbian Patriarchate in Yugoslavia?

NUMBER FIVE ISSUE: The Davis Supplemental Opinion at page 463 finds that Firmilian was appointed in 1963 by the Holy Episcopal Synod as temporary administrator of the original American-Canadian Diocese in place of Bishop Dionisije (later defrocked); subject, however, to evidence on this trial on remand. What finding does this Court make?

CONTROLLING LEGAL AUTHORITIES

The opposing litigants cite considerable case law in their briefs before this Court, some from the United States Supreme Court and some involving our same litigants in other jurisdictions. However, after our examination of briefs and citations, there still remain two outstanding U.S. Supreme Court cases, viz., commonly known as the "Watson" and "Kedroff" cases which we believe are basic to the general tenor of this opinion as they were to Justice Davis' Opinion in 72 Ill. App. 2d 444. These two cases will now be discussed in relation to our instant cause as will two or three cases decided subsequent to the Davis Opinion in 1966, as well as related matters.

(A) Watson v. Jones, 13 Wall. 679 (1871); 20 L. Ed. 666 is recognized by all (Davis Opinion pages 456 & 457) as the U.S. Supreme Court basic and unchanged general rule relative to civil courts interfering in, or trying to settle, ecclesiastical disputes involving church-held property. At page 674 of Watson (Lawyer's Edition), the Supreme Court grouped such cases in the following manner:

> "The questions which have come before the Civil courts concerning the rights to property held by ecclesiastical bodies, may, so far as we have been able to examine them, be profitably classified under three general heads, which of course do not include cases governed by considerations applicable to a church established and supported by law as the religion of the State."

(Here, the court first describes conditions found in the deed or will involving the specific property; and second where the individual church which owns the property is congregational in type and strictly independent of any higher church authority. The third class is quoted from Watson as follows):

> "3. The third is where the religious congregation or ecclesiastical body holding the property is but a subordinate member of some general church organization in which there are superior ecclesiastical tribunals with a general and ultimate power of control more or less complete in some supreme judicatory over the whole membership of that general organization."

Again, in Watson (L. Ed. Page 676):

> "In this class of cases we think the rule of action which should govern the civil courts, founded in a broad and sound view of the relations of church and state under our system of laws, and supported by a preponderating weight of judicial authority is, that, whenever the questions of discipline or of faith, or ecclesiastical rule, custom or law have been decided by the highest of these church judicatories to which the matter has been carried, the legal tribunals must accept such decisions as final, and as binding on them, in their application to the case before them."

(B) Kedroff, et al. v. St. Nicholas Cathedral of Russian Orthodox Church in North America, 344 U.S. 94 (1952); 97 L. Ed. 120, affirmed and approved the general findings in Watson and also defined Class Number 3 therein (the hierarchical churches) as those organized as a body with other churches having similar faith and doctrine, with a common ruling convocation or ecclesiastical head. Kedroff held to be violative of the First Amendment to the U.S. Constitution, certain New York State Legislation taking considerable church power from the Holy See in Moscow and granting it to the American-based Orthodox Russian Diocese. Justice Davis on page 456 writes: "We do not believe it can seriously be contended that the American Diocese is not a part of such a Hierarchical structure." In this opinion, this Court concurs.

(C) There are other decisions of Courts of Appeal from various jurisdictions cited in the respective briefs for the parties here. We have given the consideration thought to be due to such citations and we believe only two are sufficiently relevant (especially "Blue Hull").

1. Presbyterian Church, etc., et al. v. Mary Elizabeth Blue Hull, etc., et al., 393 U.S. 440, (89 Sup. Ct. 601) (1969), involved two local churches which belonged to a Presbyterian structure much similar to our Serbian overall Hierarchical structure. Local churches felt that they had sufficient doctrinal and other differences to withdraw from their mother church and the "Blue Hull" case resulted. The trial court and the Georgia Supreme Court both found for the local churches. However, in said "Blue Hull" decision, the U.S. Supreme

Court reversed, citing Watson v. Jones, supra, stating (393 U.S. 604):

> "There, as here, civil courts were asked to resolve a property dispute between a national Presbyterian organization and local churches of that organization. There, as here, the disputes arose out of a controversy over church doctrine. There, as here, the Court was asked to decree the termination of an implied trust because of departures from doctrine by the national organization. The Watson Court refused pointing out that it was wholly inconsistent with the American concept of the relationship between church and state to permit civil courts to determine ecclesiastical questions."

The "Blue Hull" Court then, in substance, confirmed Watson. The exception so familiar to all by now giving civil courts limited jurisdiction in church matters where it is proven that fraud, collusion or arbitrariness has affected ecclesiastical decision, is affirmed in "Blue Hull" on page 447, but more directly on page 451.

2. The Maryland and Virginia Eldership, etc., et al. v. The Church of God at Sharpsburg, Inc., et al., 396 U.S. 367; 24 L. Ed. 2d 582 (1970), is a one-page per curiam opinion. It is informative solely from a Justice's "Separate Opinion" of about two pages which cites the Watson, Kedroff, and Blue Hull cases, all supra, all with approving comments, but adding little to the law in our Serbian case.

(D) The Statute of Illinois under which the American Diocese was incorporated in 1935 as a religious society has significance to us as the Davis Opinion

relates (pp. 456 & 457) of two methods to incorporate religious societies under the Religious Corporations Act, §§35-46, inclusive, thereof provide for independent organizations. (Ill. Rev. Stats. now 1971, Chap. 32, paragraphs 164 et seq.); and §§46(a)-(k) inclusive. The Diocese in this country was incorporated in 1935 under the provisions of Chap. 32, paragraphs 176-186, inclusive. This fact, together with the constitutional language, church history, and practice, clearly establishes the Hierarchical nature of the Serbian Orthodox Church. (See Davis Opinion, page 457).

DECISION

We now decide the issues as we view them by the same numbers which we have used to outline them previously herein.

NUMBER ONE ISSUE: In our opinion, no substantial evidence was produced by Defendants at the trial that fraud, collusion or arbitrariness existed in any of the actions or decisions preliminary to or during the final proceedings of the decision to defrock Bishop Dionisije made by the highest Hierarchical bodies of the Mother Church. These were valid ecclesiastical matters under the above findings and highest legal authorities. Bishop Dionisije chose not to appear in Belgrade for trial and he had been dissident from the Mother Church for many, many years, even though it may be from originally what he thought and may still think are patriotic reasons. Nevertheless, his attitude was one of defiance of the Holy See which was publicly made manifest and known to a great many of the faithful, he refused to attend meetings of

Bishops in Yugoslavia, even in recent years, and the Mother Church can hardly be blamed for proceeding with his trial in his absence.

Countless charges of personal misconduct were made by Plaintiffs against Bishop Dionisije and a great part of the trial was evidence pro and con by witnesses concerning those matters. This Court permitted this evidence (much of which now seems extraneous) wherein we believe that trial counsel had legal reason in connection with this "Issue Number One." However, we now consider that all this type of evidence was irrelevant to any of our issues stated herein and we make no finding as a Court as to the personal conduct of Bishop Dionisije while a Bishop nor concerning the charges in question.

NUMBER TWO ISSUE: No sufficient evidence was heard during our trial to differ with or to comment upon the Justice Davis Opinion at pages 451 and 458 confirming and holding that the Religious Corporation, "The Serbian Eastern Orthodox Diocese for the United States of America and Canada" has "full administrative freedom" and autonomy over its local Constitution, although changes and Amendments thereto can only be consummated "with the approval of the Holy Bishops' Assembly of the Serbian Patriarchate."

We comment that this does create a rather anomalous situation, with the American Diocese being led by a temporary Administrator and perhaps a bishop appointed by the Mother Church and it also having a "negative vote" on all future Constitution "changes and Amendments."

NUMBER THREE ISSUE: We are not persuaded by the evidence to change or comment significantly upon the opinion of Justice Davis concerning the "trust" aspect of the "Saint Sava" Corporation held property of the Diocese. We agree with his views and for brevity, we simply refer to his Opinion on this subject, beginning in the last paragraph on Page 454 and continuing to the middle of Page 456 of his Opinion.

NUMBER FOUR ISSUE: We concur fully with Justice Davis that it was improper and beyond the power of the Mother Church to take its action in dividing the whole American Diocese into three new Dioceses, changing its boundaries, and in appointing new bishops for said so-called new Dioceses. Again, for brevity, we refer to the Davis Opinion on these matters beginning in the first paragraph on Page 458 and continuing to the first paragraph on Page 460.

NUMBER FIVE ISSUE: We concur with the "Supplemental Opinion" of Justice Davis (second paragraph, Page 464), that Firmilian was validly appointed by the Holy Episcopal Synod as temporary Administrator of the whole American Diocese in place of the defrocked Bishop Dionisije, and we recall no evidence to the contrary during our trial. However, a peculiar situation exists which we do not believe Justice Davis refers to in his Opinion. Firmilian was never designated Bishop of all of the original and still existing "American-Canadian Diocese" by the Holy See in Belgrade and therefore, only an Administrator, not a Bishop, is in charge of the latter Diocese. There is a vacancy in said office of Bishop, in the opinion of

this Court, and the Mother Church should fill that vacancy at once. We realize that the Mother Church (represented by Plaintiffs trial counsel) stoutly contends in its Briefs here that Firmilian, as the Bishop of one of the three newly-created Divisional Dioceses, has jurisdiction over all Lake County matters and properties; while the American Diocese (represented by Defendants trial counsel) just as stoutly contends in its Briefs here that virtually all activity that has occurred, Justice Davis' entire Opinion (and no doubt this Memorandum), are all in error. It is of interest to note, as Justice Davis does at Page 451 of his Opinion, that the Administrator of the Diocese and the Diocesan Bishop, when appointed, possess considerable power and authority.

We suggest that suitable orders or decrees be drafted and presented to the Circuit Court, and perhaps counsel for Plaintiffs should take the initiative in that regard. We regret exceedingly that personal misfortune, injury and ill health of the undersigned have caused considerable delay in the final studies of law and evidence in this case and thus have so long delayed the issuance of this Memorandum.

DATED: December 28, 1972.

L. Eric Carey
Judge

IN THE
CIRCUIT COURT OF LAKE COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA, a religious body, et al.,	No. 63-1644	
Plaintiffs,		Consolidated No. 63-1644
vs.		
DIONISIJE MILIVOJEVICH, et al.,	No. 63-2312	
Defendants.		

FINAL DECREE

This consolidated cause having come on to be heard for the entry of a Final Decree, the Court having filed its Memorandum Decision on December 28, 1972, and having heard the statements of counsel for the parties made in open court and being otherwise fully advised in the premises, finds and concludes as follows:

1. The plaintiffs are the Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious body duly organized and existing since 1921; Bishop Firmilian Ocokoljich, a Serbian cleric (hereinafter referred to as "Bishop Firmilian"); Bishop Sava Vukovich, a Serbian cleric; Bishop Gregory Udicki, a Serbian cleric; and certain representative individuals, both laymen (Emil Droback, Sam Milanovich and Donald Kral) and Clerics (Very Reverend Dusan Popovich, Very Reverend Dusan Klipa and Very Reverend Vladimir Mrvichin), who sue on their own behalf and on behalf of those persons,

lay and clerical, who recognize and adhere to ecclesiastical and hierarchical allegiance to the Serbian Orthodox Church whose Patriarchal See is located in Belgrade, Yugoslavia which church is one of fourteen recognized orthodox ecclesiastical and hierarchical churches in the world and is hereinafter referred to as the "Serbian Church."

2. The defendants are Dionisije Milivojevich (hereinafter referred to as "Dionisije"), a former Bishop of the Serbian Church, a former diocesan bishop and officer and agent of the Serbian Eastern Orthodox Diocese for the United States of America and Canada; the Serbian Eastern Orthodox Diocese of the United States of America and Canada, an Illinois religious corporation organized and existing since 1935 under the Illinois Religious Corporations Act (hereinafter referred to as the "Illinois religious corporation"); and, the Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation organized and existing since 1945 under the Illinois Not-for-Profit Corporations Act (hereinafter referred to as the "Illinois not-for-profit corporation").

3. The Serbian Church is an ancient, world-wide, hierarchically organized church. Under the Serbian Church's hierarchical organization, the geographical territories throughout the world over which it assumes ecclesiastical authority and administration are designated, fixed and determined by the Church's Holy Assembly of Bishops and thereafter designated and set forth in its Constitution and each is designated a diocese of the Serbian Church; subject, however, to the provisions in the Constitution of the Serbian Church and the provisions in the Constitution of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, reserving to

the latter said Diocese full administrative freedom in all administrative aspects.

4. The sole power and authority to elect, ordain and assign a Diocesan Bishop rests in the Serbian Church's Holy Assembly of Bishops. Each Diocesan Bishop is, by virtue of his office as Diocesan Bishop, a member of the Holy Assembly of Bishops (hereinafter referred to as the "Holy Assembly"), the Serbian Church's highest hierarchical judicatory. At the head of the Holy Assembly is one of its number who is designated as Patriarch (the first among equals), who is elected to his office as Patriarch by the Holy Assembly and serves as its President. The executive branch of the Holy Assembly is the Holy Synod. It consists of the Patriarch and four other Diocesan Bishops selected by the Holy Assembly.

5. Neither the Illinois religious corporation nor its members have, nor have they or any of them ever had, the authority to elect, ordain, assign, reject or accept bishops. Any cleric purportedly elected to the office and rank of Bishop of the Serbian Church by any persons, groups or corporations or other entities other than the Holy Assembly were not and are not validly elected to the office and rank of Bishop, their election was and is in each instance null and void. No one of them is or has ever been a Bishop of the Serbian Church.

6. The Serbian Eastern Orthodox Diocese for the United States of America and Canada was created by the Holy Assembly in the early 1920's. Initially, Archimandrite Mardary was assigned to administer the affairs of the newly created diocese. On November 22, 1925, Mardary was elected by the Holy Assembly as Diocesan Bishop for the Diocese of the United States of America and Canada.

Prior to his death Bishop Mardary caused the Illinois religious corporation to be formed. It was organized on May 10, 1935 pursuant to the Illinois Religious Corporations Act, ch. 32, pars. 46(a)-(k). It has the powers and obligations as are set forth and defined in the Diocesan Constitution, the Constitution of the Serbian Church and the Illinois Religious Corporations Act, as amended (Ill. Rev. Stats. 1971, pars. 176-187).

7. All assets, real, personal, tangible and intangible transferred by the Illinois religious corporation (and all those acting under and pursuant to its authority), were so transferred to the aforedescribed Illinois not-for-profit corporation, Shadeland Corporation and Jackson Corporation subject to, and impressed with, the trust imposed upon those assets. Those assets and all accretions and additions thereto by increase in value, income, earnings, or otherwise have at all times pertinent hereto been held (and are now, and must continue to be held) for the use and benefit of those persons in the United States and Canada faithful to the Serbian Church and to the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

8. Dionisije was elected by the Holy Assembly in Belgrade, Yugoslavia, as Diocesan Bishop for the Serbian Eastern Orthodox Diocese for the United States of America and Canada in December, 1939. By virtue thereof he became and until suspended on May 10, 1963, served as the chief executive officer of the Illinois religious corporation, the Illinois not-for-profit corporation, the Priests' Pension Fund, the Shadeland Corporation, the Jackson Corporation, and the Diocesan Council. The Illinois religious corporation, the Illinois not-for-profit corporation, the Shadeland Corporation, the Jackson Corporation, and the

Priests' Pension Fund, are secular arms of the Serbian Eastern Orthodox Diocese for the United States of America and Canada. The Diocesan Council is the governing body of the Diocese for the United States of America and Canada.

9. On May 10, 1963, the Holy Synod suspended Dionisije. On July 27, 1963, the Holy Assembly removed and deposed Dionisije as Diocesan Bishop and on March 5, 1964, it defrocked him. These actions were valid, free and voluntary, binding ecclesiastical actions of the Holy Synod and Holy Assembly of the Serbian Church, taken wholly within their ecclesiastical power and authority. They were in no respect tainted with fraud, collusion, duress, or arbitrariness. Accordingly, they must be (and should have been) honored and accepted by defendants and each of them, and, as well, given full force and effect by this and other secular courts of, and in, the United States and Canada, with regard to their effect, ecclesiastically and otherwise, on the possession, control and administration of church property.

10. Dionisije, having been validly suspended on May 10, 1963, and deposed and removed from his position as Diocesan Bishop for the Diocese of the United States of America and Canada on July 27, 1963, and defrocked as a Bishop of the Serbian Church on March 5, 1964, was without power or authority from and after May 10, 1963 to act as, or to exercise any of the rights, privileges, duties, powers or authorities, dejure or defacto, of Bishop of the Diocese. From and after July 27, 1963, the office of Bishop of the Diocese for the United States of America and Canada became and remained and still is vacant, as did and are the offices of chief executive officer of the Illinois religious corporation, the Illinois not-for-profit corporation, the

Priests' Pension Fund, the Jackson Corporation, the Shadeland Corporation and the Chairmanship of the Diocesan Council, as well as other offices and positions of the Diocese and of each of the above-listed corporations, held by the Bishop of the Diocese by virtue of his office as Bishop.

11. The office of Bishop for the Diocese of the United States of America and Canada being vacant, the Holy Assembly had exclusive authority to fill that vacancy. Upon the entry of the order of suspension and pending the final disposition of the suspension of Dionisije and his ultimate reassignment to his office or his removal therefrom by the Holy Assembly, the Holy Synod had exclusive authority to appoint an Administrator of that Diocese of the United States of America and Canada.

12. The Holy Synod, following Dionisije's suspension, validly appointed Bishop Firmilian as Administrator for the Diocese of the United States of America and Canada on May 10, 1963. By virtue of that appointment, Bishop Firmilian has since then been, and is, pending the election of a Diocesan Bishop to succeed him, the chief executive officer of the Illinois religious corporation, the Illinois not-for-profit corporation, the Priests' Pension Fund, and the Diocesan Council, responsible for the administration for the benefit of, and as trustee for those who are members of and who are faithful and who give allegiance to the Serbian Church and the Serbian Eastern Orthodox Diocese for the United States of America and Canada, of all of the assets tangible and intangible, real and personal, owned, held, controlled and operated by each of the aforedescribed entities. As Administrator, he has, and has had since his appointment on May 10, 1963, the powers, authorities, rights, duties, privileges, emoluments, immunities,

offices and positions of the Administrator of the Diocese of the United States of America and Canada with the powers and subject to the limitations contained in the Constitutions of the Serbian Church and of the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

13. Dionisije and those acting under his control and authority, have since May 10, 1963, illegally and improperly refused to recognize:

(i) the decisions of the Holy Assembly suspending, removing and defrocking Dionisije, and

(ii) the authority of Bishop Firmilian as Administrator for the Serbian Eastern Orthodox Diocese for the United States of America and Canada and as such, the holder of all offices and positions, rights, duties, powers, authorities, emoluments, immunities of Administrator, including, among others, the chief executive officership of the Illinois religious corporation, the Illinois not-for-profit corporation, the Priests' Pension Fund, and the Diocesan Council.

14. Bishop Firmilian's authority as Administrator of the Diocese for the United States of America and Canada is as set forth in the Constitutions of the Serbian Church and the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

15. The Illinois religious corporation has full administrative freedom with relation to possession, use and control of its real and personal property, tangible and intangible, provided, however,

(i) that it may not change or amend the Diocesan Constitution without the approval of the Holy Assembly,

(ii) that all said real and personal property, tangible and intangible, has been during all times pertinent hereto, and still is and will remain, property held in trust to be administered for the benefit of those faithful in the United States and Canada who are faithful to the Serbian Church, and the Serbian Eastern Orthodox Diocese for the United States of America and Canada; and

(iii) the Illinois religious, Shadeland and Jackson Corporations and the Priests' Pension Fund may not employ any of their property contrary to the trust imposed thereon.

16. The changes and amendment to the Constitution of the Serbian Eastern Orthodox Diocese for the United States of America and Canada purportedly enacted subsequent to May 10, 1963, not having been approved by the Holy Assembly are null and void and without any force or effect, defacto or dejure.

17. By virtue of the authority conferred upon it by the Constitution of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, the Diocesan Council has apparently managed all the temporal affairs of the Serbian Eastern Orthodox Diocese from May 10, 1963 to the present and there has been no evidence presented to this Court of any breach of the trust imposed upon the assets, or wrongdoing, with the assets of the Illinois religious corporation or Illinois not-for-profit corporation since May 10, 1963. The Court further finds that the financial and administrative matters conducted by the Sabors since May 10, 1963 have apparently been in accordance with the Constitution of the Serbian Eastern Orthodox Diocese except to the extent that the Sabors purported to amend the Diocesan Constitution without the approval of the Holy Assembly of Bishops.

18. Absent the calling and holding of a Sabor pursuant to the Constitution of the Serbian Eastern Orthodox Diocese for the United States of America and Canada and appropriate actions of the Sabor, it was improper for the Holy Assembly to initiate or effect a division or reorganization of the entire Diocese for the United States of America and Canada and of the Illinois religious corporation into three new dioceses and, therefore the action of the Holy Assembly purporting to reorganize and divide the Serbian Eastern Orthodox Diocese into three new dioceses and to appoint a Diocesan Bishop of each of the new dioceses is invalid, null and void and of no force or effect, dejure or defacto.

19. Bishop Firmilian in his capacity as the Administrator of the Serbian Eastern Orthodox Diocese for the United States of America and Canada is authorized to do those acts permitted under the Serbian Church Constitution and the Constitution of the Serbian Eastern Orthodox Diocese for the United States of America and Canada and may undertake no action inconsistent with this decree or those Constitutions.

20. All Serbian Church congregations in the United States of America and Canada who profess loyalty to the Serbian Church with its Patriarchal See located in Belgrade, Yugoslavia, and the Serbian Eastern Orthodox Diocese of the United States of America and Canada with its Diocesan See located in Libertyville, Illinois, are members of the Serbian Eastern Orthodox Diocese for the United States of America and Canada regardless of what position said churches may have taken with regard to the Serbian Church and the aforesaid Diocese from May 10, 1963 until the date of the entry of this Decree.

In view of the within and foregoing findings and conclusions:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The decisions and actions of the Holy Assembly and the Holy Synod relating to the suspension, removal and defrockment of Dionisije were in no way tainted with fraud, collusion, duress, undue influence or arbitrariness. They were in all instances voluntary and legally authorized actions and they were valid, authorized and proper ecclesiastical decisions of the highest judicatories of the Serbian Church, and are in all respects binding upon this Court.

2. Bishop Firmilian was validly appointed by the Holy Synod to be and has been since his appointment on May 10, 1963 the Administrator of the Diocese for the United States of America and Canada in replacement of Dionsije. Until replaced by a Diocesan Bishop elected and assigned by the Holy Assembly, Bishop Firmilian possesses the authority, rights, duties, emoluments, privileges, immunities, offices and positions which are more particularly set forth in the Constitutions of both the Serbian Church and of the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

3. The office of Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada is now and has been since July 27, 1963 vacant. The Holy Assembly has the exclusive authority to fill that vacancy.

4. Defendants, and each of them, and all persons, firms, corporations and entities who have acted or who are acting under, with, or pursuant to their order or direction or in concert with them, are ordered to recognize Bishop Firmilian as the Administrator of the Serbian Eastern Orthodox Diocese for the United States of America and

Canada and his authority as is set forth in the Constitutions of the Serbian Church and the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

5. The Illinois religious corporation, has full administrative freedom within the entire political territory of the United States of America and Canada and it may independently regulate and rule the activities of its churches, schools and other diocesan institutions subject to the trusts hereinbefore set forth, and the Serbian Church with its See in Belgrade, Yugoslavia, other than having the power to approve or disapprove amendments to the Constitution of the Serbian Eastern Orthodox Diocese of the United States of America and Canada has no right or authority to interfere with the management of the property of the Serbian Eastern Orthodox Diocese.

6. Any purported changes or amendment to the Constitution of the Serbian Eastern Orthodox Diocese for the United States of America and Canada purportedly enacted subsequent to May 10, 1963 are null and void and do not now nor have they ever had any defacto or dejure force or effect.

7. The May 10, 1963 decision of the Holy Assembly of Bishops dividing the Serbian Eastern Orthodox Diocese for the United States of America and Canada into three new dioceses, was illegal, invalid and unenforceable because it is in violation of the Constitutions of the Serbian Church and the Serbian Eastern Orthodox Diocese and all acts of the bishops and officers of the three new dioceses as alleged successors to the American-Canadian Diocese are null and void.

8. Dionisije has not been a Bishop of the Serbian Church since March 5, 1964, nor a Bishop of the Serbian Eastern Orthodox Diocese for the United States of America and Canada since July 27, 1963, nor, since May 10, 1963, the chief executive officer of the Illinois religious corporation, the Illinois not-for-profit corporation, the Shadeland Corporation, the Jackson Corporation, the Priests' Pension Fund, or the Diocesan Council, nor has he had authority since May 10, 1963 to exercise any ecclesiastical or administrative authority or power whatever with respect to the property or affairs of said corporations, Council and Fund or any committee or group associated with them.

9. The Court retains jurisdiction of this cause for the purpose of entering any further orders or decrees necessary, appropriate or desirable in order to execute, enforce and carry out this Decree.

10. The court costs in this consolidated cause shall be calculated by the Clerk of Court, assessed and paid one-half by plaintiffs as a group and one-half by defendants as a group.

11. Nothing shall delay the enforcement or appeal of this decree.

ENTER:

L. Eric Carey

Dated: April 30, 1973.

IN THE
CIRCUIT COURT OF LAKE COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

(title omitted in printing)

MOTION TO RECONSIDER

Now come the Defendants by Sullivan & Smith and Snyder, Clarke, Dalziel, Holmquist & Johnson, their attorneys, and move this Court, pursuant to the provisions of the Civil Practice Act, to vacate and/or modify the Final Decree dated April 30, 1973, and in support of said Motion allege and state:

1. That paragraph 20 of the Decree contravenes the Due Process Clause of the Fourteenth Amendment and the Freedom of Religion Clause of the First Amendment to the United States Constitution by establishing in place of the voluntary religious organization known as The Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious corporation, a new organization whose membership depends upon this Court's determination of who professes loyalty to the American-Canadian Diocese and to the Serbian Church.

2. That paragraph 20 of the Decree violates the First Amendment guarantee of freedom of religion by forcing the present members of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, a religious corporation, to affiliate, associate, worship and otherwise act in concert with and be considered as fellow members of a church organization formed by this Court.

2. That paragraph 20 of the Decree extends the decision of this Court beyond the "neutral principles

of law" and makes the Court the present and future arbitrator of religious questions including the following:

(1) What is sufficient profession of loyalty to the Serbian Church or the American-Canadian Diocese?

(2) What is a Serbian congregation?

(3) How many persons are necessary to create a church congregation?

4. That paragraph 20 of the Decree is violative of the Due Process Clause of the United States and Illinois constitutions for the reason that the State of Illinois, by and through this Court, requires the Serbian Church congregations presently members of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, an Illinois religious corporation, to engage in Diocesan functions with an undetermined number of alleged Serbian Church congregations, not presently members of the Incorporated American and Canadian Diocese, without a definitive ruling by this Court that the clergy of the congregations presently members of the Illinois religious corporation are authorized to participate in the activities of the Diocese as voting members, pursuant to the pertinent sections of the Diocesan Constitution.

5. That paragraph 20 of the Decree purports to include congregations as members of the incorporated diocese in contradiction of this Court's evidentiary ruling during trial that evidence relating to congregations created or existing subsequent to May 10, 1963 was irrelevant to the issues in the case.

6. That paragraph 20 contradicts paragraph 18 of the findings and paragraph 7 of the Order in that

said paragraph 20 purports to legitimatize congregations created by the three Bishops, Gregory, Sava and Firmilian, and paragraphs 18 and 7 find that all acts of these three Bishops, as successors of the American-Canadian Diocese are null and void.

7. That paragraph 1 of the Final Decree is violative of the First Amendment to the United States Constitution in that it purports to distinguish among citizens on the basis of recognition and an adherence to ecclesiastical hierarchial allegiances, matters beyond the scope of neutral principles of law and beyond the jurisdiction and authority of a civil court.

8. That paragraph 4 of the Decree contravenes the restraints imposed upon a civil court in the resolution of disputes among religious organizations in that the Court resolves a contested doctrinal dispute finding that a Diocesan Bishop is elected only by the Holy Assembly of Bishops, and that the Patriarch is elected by the Holy Assembly of Bishops; the Court refuses to follow the Constitution of the Serbian Orthodox Church which specifies that the Patriarch is not elected by the Holy Assembly of Bishops.

9. That paragraph 5 of the Decree contravenes neutral principles of law in that the Court rules on an ecclesiastical question and finds, despite evidence to the contrary, that the members of the American-Canadian Diocese have no authority to elect a bishop.

10. That paragraph 6 of the Decree fails to set forth the uncontroverted testimony and exhibits that the American-Canadian Diocese existed as a part of the Russian Orthodox Church in the United States prior to the 1920's.

11. That the findings in paragraph 9 concerning the suspension and defrockment of Bishop Dionisije are contrary to the manifest weight of the evidence.

12. That the civil rights of Bishop Dionisije have been violated by the Court's giving full force and effect to the determinations of the Yugoslavian Court.

13. That the Court infringed the rights of Bishop Dionisije to due process, equal protection and the privileges and immunities of American citizenship by finding in his Memorandum Decision that the Bishop was under a duty to attend an alleged hearing in Yugoslavia when he had received no notice of the hearing and the President of Yugoslavia had declared His Grace an enemy of the Yugoslavian State.

14. That the Court erred by refusing testimony and exhibits which suggested the extreme risk of imprisonment for Bishop Dionisije if he went to Yugoslavia.

15. That the Court erred by punishing Bishop Dionisije for not attending meetings of the Bishop's Assembly in Belgrad despite the undisputed evidence that His Grace was not convicted or charged with failure to attend.

16. That the Court found Bishop Dionisije's attitude was "one of defiance of the Holy See" and this finding is unsupported in the evidence unless the Court refers to His Grace's refusal to cease speaking against Communism and such a finding infringes the First and Fourteenth Amendments to the United States Constitution.

17. That paragraph 15 of the Decree interjects the Court into ecclesiastical determinations by requiring the Court, in the enforcement of its Decree, to determine who was or is now "faithful" and requires property rights to be dependent upon such a determination.

18. That the Decree, in violation of the First Amendment, on page 11 requires the Defendants to recognize "Bishop Firmilian" although a previous paragraph finds that the appointment of Bishop Firmilian to the status of Diocesan Bishop was a null and void act.

19. That the Court, in explicit disregard of the absolute constitutional prohibition upon state authorities, has established a new religious organization and ordered a previously voluntary religious corporation and its members to profess loyalty to certain religious authorities as a condition precedent to participation in the organization.

20. That the Court, in violation of the constitutional rights of Due Process and Freedom of Association, forces the Illinois Religious corporation to profess loyalty to a foreign religious organization without requiring the foreign organization to recognize the existence of or Constitutional (Diocesan) Rights of the Illinois Religious Corporation.

21. That the Court erred in failing to recognize the right of a religious corporation to withdraw from a constitutional relationship with another foreign religious organization upon material and substantial alterations of the relationship by the foreign religious organization.

22. That the Court establishes a religion by forcing the Illinois Religious Corporation to religiously associate with unknown persons who have not been received as members pursuant to the Constitution of the Diocese.

William A. Holmquist
(signature illegible)

IN THE
CIRCUIT COURT OF LAKE COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

(title omitted in printing)

PLAINTIFFS' MOTION FOR POSSESSION

Now come Plaintiffs by their attorneys and respectfully move that an order be entered herein requiring the Defendant, Dionisije Milivojevich, to vacate the residence, now occupied by him at the St. Sava Monastary, Libertyville, Illinois, and to deliver possession thereof together with all diocesan books and records in his control or in his possession to the Administrator of the Serbian Eastern Orthodox Diocese for the United States of America and Canada pursuant to Paragraph 2 of the decretal portion of the Decree entered in this cause on April 30th, 1973.

Jenner & Block
Katz, Karacic & Mansfield
Hall, Meyer, Fisher, Holmberg,
Snook & May
By *Henry D. Fisher*
Attorneys for Plaintiffs

IN THE
CIRCUIT COURT OF LAKE COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

(title omitted in printing)

ORDER

This cause coming on to be heard upon the Motions of Defendants for Stay or Supersedeas Bond, to Reconsider, and the Objections of Plaintiffs thereto and Plaintiffs' Motion for Possession; and it appearing that due notice of the hearing of all of said Motions has been given to the parties entitled thereto; and the Court having heard the arguments of counsel and being fully advised in the premises;

It Is Ordered, Adjudged and Decreed as follows:

1. That the Motion of Defendants to Reconsider is denied.

2. That the Motion of Defendants for Stay or Supersedeas Bond is denied.

3. That Plaintiffs' Motion for Possession be and the same is hereby continued to the 19th day of June, 1973 at the hour of 2:00 P.M. at which time any additional Motions of Defendants for Supersedeas Bond will be heard. Dated this 30th day of May, 1973.

ENTER:
L. Eric Carey
Judge

(approval as to form omitted)

IN THE
CIRCUIT COURT OF LAKE COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION
(title omitted in printing)

SUPERSEDEAS ORDER

This matter coming on upon the Notice and presentment of the Supersedeas Bond by the Defendant-Appellants herein, and the Court having heretofore, approved said Bond and the conditions thereof, and said Bond having in all respects been filed with the Clerk;

It Is Hereby Ordered, Adjudged And Decreed that the force and effect of Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19 and 20 of the Court's findings and Paragraphs 1, 2, 3, 4, 5, 6, 8 and 10 of the Decretal portion of the Decree entered April 30, 1973 in this cause and described in the Notice of Appeal filed in this Court by the Defendant-Appellants, has been stayed pending Appeal and enforcement of said provisions is hereby suspended.

Enter this 23rd day of July, 1973.

L. Eric Carey
Judge

Opinion of the Supreme Court of Illinois

No. 46670

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA et al., Appellees, v. DIONISIJE MILIVOJEVICH et al., Appellants.

Opinion filed March 24, 1975. — Rehearing denied May 29, 1975.

MR. JUSTICE KLUCZYNSKI delivered the opinion of the court:

This is a direct appeal granted under Supreme Court Rule 302(b) (50 Ill.2d R. 302(b)) from a judgment of the circuit court of Lake County principally involving a dispute over the control of the Serbian Eastern Orthodox Diocese for the United States of America and Canada (hereinafter the American-Canadian Diocese or the Diocese) and the property and assets of that diocese. The parties, as they are presently constituted, are as follows:

Plaintiffs:	Defendants:
Bishop Firmilian Ocokoljich	Bishop Dionisije Milivojevich
Bishop Gregory Udicki	Serbian Orthodox Monastery of St. Sava (monastery corporation)
Bishop Sava Vukovich	
Serbian Eastern Orthodox Diocese for the United States of America and Canada (the religious body in this country)	Serbian Eastern Orthodox Diocese for the United States of American and Canada (an Illinois religious corporation)

Plaintiffs sought, in part, to have the trial court find that Bishop Dionisije had been removed as bishop of the Diocese, that the Diocese had been reorganized into three new

dioceses, and that the three bishops be granted control of the Diocese [sic] and its property. Defendants filed a counterclaim seeking, among other relief, an injunction to prevent the plaintiffs from interfering with the assets of the defendant corporations. The circuit court held, in pertinent part, that Bishop Dionisije had properly been removed as bishop of the American-Canadian Diocese, that the reorganization of the Diocese into three new dioceses was illegal and invalid, and that only Bishop Firmilian as the duly appointed administrator of the Diocese could exercise authority over the Diocese and its property. Both plaintiffs and defendants appeal the trial court decision.

This case was originally filed in 1963 by the present defendants, and the plaintiffs countered by filing a separate complaint. Both parties sought the same relief as was stated above. The trial court consolidated the actions and, based upon the pleadings, depositions and affidavits, granted the defendants herein summary judgment and dismissed the complaint of the plaintiffs. On appeal, the appellate court reversed the summary judgment and the order dismissing the complaint, and remanded the cause with directions for a full hearing on the merits. (*Serbian Eastern Orthodox Diocese for United States of America and Canada* v. *Ocokoljich*, 72 Ill. App. 2d 444, *appeal denied*, 34 Ill.2d 631.) On remand and over defendants' objection, the trial court allowed the Serbian Eastern Orthodox Diocese for the United States of America and Canada, the religious body in this country, to be designated a party plaintiff.

The similarity of certain named parties involved in this appeal requires some clarification prior to any understandable recitation of the facts. In addition to the last-named plaintiff and the last-named defendant as previously set forth, there is the entity which is the subject of this controversy, the Serbian Eastern Orthodox Diocese for the

United States of America and Canada (the American-Canadian Diocese). The trial court on remand made certain findings of fact as to the existence of these parties, namely, that the Illinois religious corporation is a secular arm of the American-Canadian Diocese, and that the religious body in this country is a religious body duly organized and existing since 1921. The trial court, thus, found that the religious body in this country was synonymous with the American-Canadian Diocese. We conclude, however, that these findings are contrary to the manifest weight of the evidence, and they are, therefore, set aside. (*Turner* v. *Board of Education,* 54 Ill.2d 68, 72-73; *Kenny Construction Co.* v. *Metropolitan Sanitary District,* 52 Ill.2d 187, 196.) It is unnecessary at this point to relate the facts which form the basis of our determination, since the factual recitation which follows amply discloses that basis. The American-Canadian Diocese and the Illinois religious corporation (the last-named defendant) are one and the same as of the time of the Diocese's incorporation in May, 1935. If a distinction is to be made between the organizational entity of the Diocese and the individual church members of the Diocese when viewed as a common group, the latter could properly be referred to as a religious body. We do not infer, however, that this latter entity is represented by any of the plaintiffs in this action. The subject of this controversy and a party defendant is the American-Canadian Diocese organized as an Illinois religious corporation.

The complete factual background essential for an understanding of this case is not in all respects certain, since the parties are in dispute concerning it, and the trial court entered its findings of fact only as to those facts upon which it based its decision. We will recite the complete factual background as we understand it from the record and the briefs submitted by the parties. However, as to the testimony of the numerous witnesses in the trial court, we will recite only that testimony we deem necessary for a complete determination of the issues on appeal.

In the 1890's, persons of Serbian descent migrated to North America, where they formed completely autonomous religious congregations throughout the United States and Canada. Until 1920 these Serbian Orthodox churches were under the jurisdiction of the Russian Orthodox Church, the oldest Orthodox church in this hemisphere. The Russian Orthodox Church, however, was burdened with its own requirements and was unable to care for the local Serbian needs. The minutes of early meetings of Serbian priests and people held in 1913 and 1916 indicate a strong desire by these people to have their churches in America under the jurisdiction of the Serbian Orthodox Church with its See in what is now Belgrade, Yugoslavia.

In 1913 a meeting of Serbian priests and people was called for the purpose of organizing the Serbian Orthodox Church in North America. During this meeting a constitution was drafted and accepted. Article 4 of this constitution provided that the Serbian Orthodox Church in the United States was to have its own Church National Representation and Church National Governing Body and that it would govern autonomously in matters of church, school, education and property.

In 1916 a Serbian Priests' Assembly was held and presided over by Bishop Evdokim of the Russian Orthodox Church. Business and problems facing the Serbian churches in America were discussed and resolved. A "Normal Constitution for the North American Orthodox Diocese" of 1909, apparently a constitution taken from the Russian Orthodox Church, was accepted by the priests' assembly with the necessary revisions to delete the references to the

Russian Orthodox Church and refer instead to the Serbian Orthodox Church. It was also decided that several paragraphs would be added to this constitution to describe the duties of the Bishop's Aides. The 32 Serbian Orthodox parishes existing in the United States at the time of this meeting were divided into 4 presbyteries or divisions: Eastern, Middle, First Western, and Second Western. The Bishop's Aides were four Serbian priests elected to accept jurisdiction over the four presbyteries and to act as mediators between the bishop and the people.

In 1917 the Russian Orthodox Church sent Father Mardary Uskokovich (a Serbian educated in Russian Orthodox seminaries) to America with instructions to organize an independent Serbian diocese. Four years later the Holy Assembly of Bishops of the Serbian Orthodox Church sent a delegation to America to determine the status of the Serbian parishes. Apparently as a result of Father Mardary's efforts and the report of the delegation, the Serbian Orthodox Church recognized that the necessary structure was present in America for establishing a diocese, and designated a Serbian bishop to carry out the formal organization of a diocese. The designated bishop, however, did not become a permanent resident of the United States, and Father Mardary was appointed as Resident Administrator of the Diocese until his election as bishop of the Diocese by the Holy Assembly of Bishops in 1925.

In 1927 Bishop Mardary organized under the laws of Illinois a not-for-profit corporation named the Serbian Eastern Orthodox Diocese Council for the United States and Canada. The purpose of this corporation was to hold title to 30 acres of property in Libertyville, Illinois, which the bishop had purchased in 1924. The charter of this corporation was permitted to lapse, and, shortly before Bishop Mardary's death in 1935, the American-Canadian Diocese was incorporated pursuant to provisions of the Illinois Religious Corporation Act (Ill. Rev. Stat. 1973, ch. 32, pars. 176 through 188) under the name of the Serbian Eastern Orthodox Diocese for the United States of America and Canada.

Acting under his authority as diocesan bishop, Bishop Mardary called the First Church National Assembly meeting, also known as a Sabor, for September 1, 1927. The invitation to this assembly was sent to all of the known Serbian Orthodox churches in the United States and Canada with the stated purpose of uniting them under one constitution. At the assembly meeting the constitution of the Serbian Orthodox Diocese for the United States of America and Canada was drafted and adopted.

Article I of the constitution provides that the American-Canadian Diocese "is considered ecclesiastically-judicially as an organic part of the Serbian Patriarchate in the Kingdom of Yugoslavia." Article 3 states that "the jurisdiction of the Serbian Orthodox Diocese *** includes the entire political territory of the United States of America and Canada, which as such *by its geographical location enjoys full administrative freedom and accordingly, it can independently regulate and rule the activities of its church, school and other diocesan institutions and all funds and beneficiaries, through its organs*, but in accordance with the laws of the constitution and in agreement with the laws of the United States [of America] and Canada." (Emphasis added.) Other pertinent provisions of the constitution provide that the bishop of the American-Canadian Diocese is appointed by the Holy Assembly of Bishops of the Serbian Patriarchate (article 9). When the seat of the diocesan bishop is vacated, the administration of the Diocese in spiritual and administrative matters is upheld by the Diocesan Ecclesiastical Court and the Diocesan Council until the ap-

pointment of an administrator by the Serbian Patriarch (article 13). The Diocesan National Assembly is the highest legislative and administrative authority of the American-Canadian Diocese with its executive and administrative organ being the Diocesan Council (article 5). The Diocesan National Assembly, which meets every third year in the month of September or on a day designated by the diocesan bishop (article 20), is composed basically of two delegates from every Serbian church-school congregation, all Serbian clergy, the diocesan bishop and the Diocesan Council (article 16). The diocesan bishop is the president of the Diocesan National Assembly (article 22) and the Diocesan Council (article 30). A function of the Diocesan National Assembly is to decide on changes and amendments to the constitution "with the approval of the Holy Bishops' Assembly of the Serbian Patriarchate." Article 23.

The constitution further provides that the property of the individual church-school congregation belongs exclusively to that congregation with no diocesan rights to it (article 147). All property owned by the American-Canadian Diocese is to serve "exclusively for the purpose designated by the statutes of this [C]onstitution and cannot be used for any other purpose." Article 149.

Following its adoption by the Diocesan National Assembly, the constitution was submitted for approval to the Holy Assembly of Bishops of the Serbian Orthodox Church. In 1928 the Holy Assembly approved the "autonomous administration" of the American-Canadian Diocese, but struck an initial provision which provided that the Diocesan National Assembly would elect its own bishop. It inserted the present article 9, which provides that the Holy Assembly appoints the diocesan bishop. The Holy Assembly also insisted that, as a condition for approval, all amendments

to the constitution initiated only by the Diocesan National Assembly would require the approval of the Holy Assembly. The diocesan constitution, as then approved by the Holy Assembly of Bishops, remains, in substance, in force and effect today. It is undisputed that the Diocese thereby became the only diocese in the Serbian Orthodox Church with its own constitution.

In 1945, the property located in Libertyville, which had come to be called the St. Sava Monastery, was transferred to an Illinois not-for-profit corporation organized under the name of the Serbian Orthodox Monastery of St. Sava (monastery corporation). The bylaws of this corporation provide that it is an autonomous Serbian Church institution, and that it "possesses its own property which cannot be disposed of, sold, mortgaged or otherwise conveyed by any Serbian Church authority, without the consent and approval of the Diocesan Council, headed by the Bishop and the Diocesan Church convention." (Bylaw 2.) They further provide that the president of the Board of Directors is the canonical bishop of the Diocese "received as such by the Diocesan Council *** Church Court and *** Convention." (Bylaw 6.) In addition to the monastery corporation, two other not-for-profit corporations organized under the respective laws of California and Pennsylvania hold title to large parcels of property located in these two States.

The Serbian Orthodox Church with its See in Belgrade, Yugoslavia, is one of the 14 autocephalous churches resulting from the great schism in 1054 when the universal Christian church was divided into the churches of the west (the Roman Catholic Church) and the churches of the east (the Orthodox Church). In 1931 the Serbian Orthodox Church adopted a constitution which was substantially revised in 1947 due to changes in its relationship with the

communist government of Yugoslavia. Subsequent amendments to the revised constitution are not pertinent to this controversy except for the amendment of May 10, 1963.

The Serbian Orthodox Constitution provides, in pertinent part, that the Serbian Orthodox Church is autocephalous and governs and regulates independently all of its religious affairs, and that it maintains dogmatic and canonical unity with all other Orthodox churches (article 1). The church has the rank of Patriarchate (article 2). Article 10 states that in the Serbian Orthodox Church there are six levels of church hierarchical and administrative authorities, bodies and organs. The highest two levels are relevant here. The first level consists of the Patriarch, Holy Bishop's Council and Holy Synod, High Ecclesiastical Court, Patriarchal Council and Patriarch[al] Board. The second level consists of the diocesan bishop, diocesan ecclesiastical court, diocesan council and executive board. Article 12 states that the Serbian Orthodox Church is episcopal, with its main administrative division composed of dioceses, both in respect to church hierarch[ic]al and church administrative aspects. Article 14 lists 24 dioceses which are "the dioceses in the Serbian Orthodox Church." Article 15 then provides that in addition to those dioceses already mentioned there are, "under the jurisdiction of the Serbian Orthodox Church in spiritual and hierarchical aspect," dioceses outside the country. Among those listed is "The Serbian Orthodox Church in the United States of America and Canada, with its seat in Chicago or in the monastery of St. Sava, at Libertyville, Illinois." Article 16 states that "(d)ecisions of establishing, naming, liquidating, reorganizing, and the seat of the dioceses *** are decided upon by the Holy Council of Bishops, in agreement with the Patriarchal Council."

The church's governing functions are divided among three entities. The Holy Assembly of Bishops, also referred to as the Holy Bishop's Council, meets once a year and is the legislative body composed of the bishops of the various dioceses (articles 57, 69). The Holy Synod of Bishops is the executive body composed of four bishops and the Patriarch (articles 59, 70). The Patriarch, who is the presiding officer of both the Holy Assembly and the Holy Synod, is also a bishop and is considered the "first among equals."

The Supreme Ecclesiastical Court supervises the judicial authority of the church (article 7). However, special judicial authority is vested in the Holy Synod and the Holy Assembly for particular cases. Articles 57, 59.

In 1961 the Serbian Orthodox Church adopted a revised penal code for Ecclesiastical Courts which detailed the offenses, procedures and punishments of the church. The provisions of this code relevant to the issues raised on appeal will be discussed as they are pertinent.

Bishop Dionisije Milivojevich was elected Bishop of the American-Canadian Diocese in 1939 by the Holy Assembly of Bishops. As early as 1951 Bishop Dionisije requested the Patriarch and the Holy Assembly of Bishops to appoint assistant or vicar bishops to the American-Canadian Diocese. The Diocese, with its church-school congregations, was expanding, and Bishop Dionisije believed that the geographical boundaries of the Diocese should be increased by the addition of South America. These requests and similar requests continued until 1960, when the Diocesan National Assembly formed the opinion that the Diocese should be elevated to the rank of Metropolia and that two or three vicar bishops should be appointed under Bishop Dionisije. In the spring of 1962 a delegation from the Diocese was sent to the Patriarchate to discuss this matter, and on June 12, 1962, the Holy Assembly of Bishops directed the Holy

Synod to appoint a delegation to visit the United States and study the proposals. Bishop Dionisije made it quite clear in a letter to the Patriarch on July 30, 1962, that he was opposed to any reorganization of the Diocese into several dioceses as had previously been suggested. Bishop Dionisije expressed doubt that the people of the Diocese would accept such a division.

Tangential to the issue of the reorganization of the Diocese was a second issue—the charges and accusations against Bishop Dionisije for personal misconduct. As early as his appointment as diocesan bishop, and throughout his administration, letters were written to the Holy Synod challenging Bishop Dionisije's fitness to serve as bishop and control the Diocese. Consequently, the delegation appointed in June, 1962, by the Holy Synod was also instructed to make a study of the charges and accusations against Bishop Dionisije.

The delegation arrived in September, 1962, and visited throughout the Diocese for approximately three months. Among its pertinent recommendations, the delegation advised the Holy Synod that vicar bishops should be assigned to the American-Canadian Diocese and that a commission should be appointed to investigate the accusations against Bishop Dionisije.

On May 10, 1963, the Holy Assembly of Bishops met and at its morning session considered the complaints against Bishop Dionisije that had been sent to the Holy Synod and those that had been brought back by the 1962 delegation. It recommended that the Holy Synod initiate disciplinary proceedings against Bishop Dionisije. The Holy Assembly then recessed its meeting while the Holy Synod met, suspended Bishop Dionisije and appointed Bishop Firmilian, who held the rank of Arch[i]mandrite, as administrator of the American-Canadian Diocese. The Holy

Assembly then resumed its meeting and, purporting to act upon the basis of article 16, amended the constitution of the Serbian Orthodox Church by deleting mention of the American-Canadian Diocese from article 15. In substitution, the Holy Assembly added articles 15—1 to 15—3, which attempted to establish in the territory of the American-Canadian Diocese three new dioceses: the Middle Western, the Western and the Middle Eastern. Bishop Dionisije, still under suspension, was transferred to the Middle Western Diocese. Seven days after this reorganization, the Holy Synod appointed as temporary administrators for the respective new dioceses Arch[i]mandrites Firmilian, Gregory and Stefan.

Upon learning of the Holy Assembly's action, Bishop Dionisije refused to accept the division of the Diocese, since the reorganization purportedly disregarded the autonomy provided for in the diocesan constitution and the action was taken without the agreement of the people of the Diocese. He also refused to accept his suspension, claiming that he was not given a prior hearing as required by the constitution of the Serbian Orthodox Church or the church's penal code. The Diocesan Council informed the Holy Synod on June 9, 1963, that the rejection or acceptance of this division would be decided by the Diocesan National Assembly which was originally scheduled to meet in October, 1963, but which would now meet in early August to consider this question. The Diocesan Council also petitioned the Holy Synod to send a committee to investigate the charges against Bishop Dionisije as soon as possible, since no changes would be made in the administration of the Diocese prior to the Diocesan National Assembly meeting.

The Holy Synod appointed a commission to investigate the charges against Bishop Dionisije on June 13, 1963. The commission met with Bishop Dionisije on July 5, 1963, at which time the bishop repeated his refusal to recognize the division of the American-Canadian Diocese or his suspension, and demanded written copies of all the charges against him. The commission, which had all the written charges in its possession, refused to show the bishop the charges on the basis that his refusal to accept the decisions of the higher church authorities was sufficient to establish his wrongful conduct without the need to investigate the personal charges against him. Prior to the meeting with Bishop Dionisije, the commission had made no investigation of any of the charges. Following this meeting, according to the testimony of one member of the commission, no investigation was conducted, while another member stated that the commission did receive further charges and spoke with some accusers. On July 6, 1963, the commission issued a proclamation which, in effect, stated that Bishop Dionisije was guilty of violations meriting the stripping of his episcopal rank and his excommunication from the church. The commission called upon all faithful Serbian people not to recognize the bishop, but rather to subordinate themselves to the administrators appointed by the Holy Synod.

On July 27, 1963, a special session of the Holy Assembly of Bishops met to consider the report given by a member of the investigation commission. The report recited, among other points, that Bishop Dionisije refused to accept the decisions of the Holy Assembly and Holy Synod dividing the one diocese into three, and suspending and removing him from governing the Diocese. It stated Bishop Dionisije would not recognize the court of the Holy Synod, nor would he recognize its judicial competence.

The report recommended that Bishop Dionisije be deposed as diocesan bishop. The Holy Assembly voted to adopt the report and decision of the investigation commission. Bishop Firmilian was then elected bishop of the Middle Western Diocese.

In August, 1963, the emergency session of the Diocesan National Assembly met and issued a resolution refusing to recognize the validity of the decisions of the Holy Assembly and the Holy Synod regarding the division of the American-Canadian Diocese. The National Assembly demanded the revocation of these decisions and adjourned its meeting until November to provide time for the Holy Assembly to withdraw its decisions. The Holy Assembly refused to reconsider, and in November the Diocesan National Assembly declared the American-Canadian Diocese completely autonomous and, as such, refused to comply with orders issued by the Holy Assembly. Moreover, the National Assembly reinstated those provisions of the diocesan constitution allowing the diocese to elect its own bishop and amend its constitution without prior approval of the Holy Assembly.

During September, 1963, the Holy Synod appointed a prosecutor to draft an indictment against Bishop Dionisije based upon the charges received by the Holy Synod and the investigation commission. The indictment was sent to the bishop, and in November he wrote to the Holy Synod requesting, under article 67 of the Penal Code, copies of the "enclosures" referred to in the indictment, which were the written complaints and letters from his accusers. The indictment, as evidenced by the enclosures submitted before the trial court, was based, in part, upon unsigned letters and complaints, many of which failed to state the time or place of the alleged offense. Bishop Dionisije also requested a 6-month extension to answer the indictment, because it was extremely long (37 pages) and he was

recuperating from a recent automobile accident. In December, the Holy Synod refused the request to provide the "enclosures" but granted a 30-day extension in which to answer the indictment. Bishop Dionisije returned the indictment in January, 1964, stating that he could not answer the indictment without the "enclosures," that the Holy Synod and the Holy Assembly were violating the church penal code and constitution, that no investigation had been made, and that he could not bring his witnesses to Belgrade for trial.

On March 5, 1964, the indictment was verbally amended by the prosecutor before the Holy Assembly to include the alleged offenses Bishop Dionisije had committed since the indictment was drafted. These alleged offenses were his joining with the Diocesan National Assembly to declare the American-Canadian Diocese completely autonomous and to set up a hierarchy outside of the Serbian Orthodox Church by the election and consecration of a diocesan-chosen bishop. By the Holy Assembly's decision, a copy of the amended indictment was not forwarded to Bishop Dionisije on the basis that he had refused to answer the first indictment. Bishop Dionisije also was not informed of this meeting. The Holy Assembly considered the original indictment and the amended indictment and found Bishop Dionisije guilty of all charges. He was divested of his episcopal and monastic ranks and returned to the status of a layman. Among those who voted on the question of Bishop Dionisije's guilt were bishops who had been either members of the 1962 delegation to the American-Canadian Diocese, which had received charges against Bishop Dionisije, or members of the 1963 investigation commission. The bishop who had been appointed prosecutor and who had drafted the indictment also took part in the vote.

The Holy Assembly at this time also declared the meeting of the Diocesan National Assembly in August and November, 1963, illegal, since it was presided over by the deposed Bishop Dionisije contrary to the constitution of the American-Canadian Diocese. It proclaimed that all decisions made by the National Assembly were unlawful and unconstitutional.

On remand of this case (72 Ill. App. 2d 444) to the trial court for a hearing on the merits, testimony was presented as to the correctness of the proceedings against Bishop Dionisije under the constitution and the penal code of the Serbian Orthodox Church.

Bishop Visarion Kostich, a member of the 1963 investigation commission and the author of the penal code, testified that in 1963 the constitution of the Serbian Orthodox Church provided that canonical offenses of a bishop were to be judged by the Holy Synod as the court of "first instance" (article 70). Under article 69 the Holy Assembly of Bishops was to review appeals from the decisions of the Holy Synod, and it was the court of "second instance" in the case of a bishop. He stated, however, that though the constitution was in full force and effect in 1963, the provisions of article 70 were never applied. Moreover, he asserted that the Holy Assembly can take upon itself the privilege of adjudicating a case. Articles 69 and 70 have been amended since the proceedings against Bishop Dionisije to provide that canonical offenses of a bishop are judged by the Holy Assembly.

Bishop Visarion testified that the meeting of the Holy Assembly on July 27, 1963, did not consider the guilt or the charges against Bishop Dionisije. Rather, it considered whether Bishop Dionisije had violated his episcopal oath, which was interpreted as a condition required for a dio-

cesan bishop under article 104 of the Serbian Orthodox Constitution. Bishop Visarion stated that no canonical verdict was rendered against Bishop Dionisije by the Holy Assembly, but a decision was made to relieve him of duties under article 111 of the constitution. Article 111 provides for removal of a diocesan bishop only by canonical verdict or for release upon proof of the loss of a condition under article 104. Bishop Visarion admitted that contrary to article 67 of the penal code no charges had been served on Bishop Dionisije prior to the July 27, 1963, meeting of the Holy Assembly. He stated that though the penal code requires that charges against an accused specify the time, place and manner of offense, certain allegations in the indictment against Bishop Dionisije failed to meet this requirement. The Holy Assembly, however, found that from the formal respects everything was in order, and that determination, Bishop Visarion maintained, was the Holy Assembly's right.

Bishop Visarion was recalled as a witness just over one year after his initial testimony in this case. At that time he testified that canonical offenses of a bishop are not judged in the first instance by the Holy Synod and that there is no provision in the constitution so requiring. He stated that the Holy Synod merely investigates the matter, examines the complaint, the indictment and the reply, and forwards the matter to the Holy Assembly. Bishop Visarion testified that article 65 of the penal code pertains to due process in penal matters, and it provides that unsigned submissions "shall not in any case be taken into consideration or process." He explained that this does not prohibit unsigned complaints from being considered by the investigators, but refers solely to documents submitted in court. He interpreted the penal code as not requiring that

the complaints or documents identified in the indictment be forwarded to the accused, but as requiring that only the text of the indictment need be sent. Bishop Visarion further stated that Bishop Dionisije was not notified of or invited to the March 5, 1964, meeting of the Holy Assembly at which he was defrocked, nor was he served with a copy of the amended indictment upon which the Holy Assembly voted. He asserted that nothing was improper by this action since Bishop Dionisije had placed himself outside the church by refusing to take part in the proceedings. Bishop Visarion, who participated in the Holy Assembly meeting and signed the judgment against Bishop Dionisije, was of the opinion that it was not improper for a person to vote on the judgment though that person had participated in the investigation or was personally interested in the matter.

Father John Meyendorff, a priest of the Russian Orthodox Church and a professor of patristics and church history, testified for plaintiffs as an expert witness on ecclesiastical law and procedure. He stated that he examined the constitution of the Serbian Orthodox Church and the constitution of the American-Canadian Diocese, and studied the orders and decision of the Holy Assembly in 1963 respecting the suspension, deposition and defrockment of Bishop Dionisije. In his opinion Bishop Dionisije was properly suspended, deposed and defrocked. He was aware that the bishop who prepared the indictment against Bishop Dionisije participated in the March, 1964, meeting of the Holy Assembly at which Bishop Dionisije was defrocked. He stated, however, this made no difference in his opinion, because he knew of no church rule which prohibited this. In his view, the bishop had a duty to vote on an issue of such importance.

On cross-examination he testified that in forming his opinion he assumed the action against Bishop Dionisije was taken by men of good spirit under the rules of the Serbian Orthodox Church. He stated that having read the indictment against Bishop Dionisije he assumed the charges, by and large, were true, and that this assumption was part of the basis for his opinion. He further stated that a very important element in forming his opinion was the consensus among the Orthodox churches and bishops that the suspension, deposition and defrockment of Bishop Dionisije were valid. A suspension, he related, was a temporary measure of general practice under canon law when a person is called for trial. Father Meyendorff admitted he had not read and was not familiar with the penal code of the Serbian Orthodox Church. In giving his opinion he did not consider whether or not the proceedings against Bishop Dionisije complied with the penal code. Having familiarized himself with the exhibits, he stated that his impression was that the procedures were correct. He further testified that procedural rules are obligatory on the body which issued and applied them.

During cross-examination Father Meyendorff was asked to read a plaintiffs' exhibit which was a translation of an excerpt of the minutes of the meeting of the Holy Assembly on July 27, 1963, when Bishop Dionisije was deposed. In regard to this exhibit, which he referred to as relating to the deposition of Bishop Dionisije, he stated the text definitely implied that the action against Bishop Dionisije was an ecclesiastical punishment or reprimand, though the text did not defrock or impose a penance on him. The exhibit indicated that the Holy Assembly sat in judgment of Bishop Dionisije and removed him as diocesan bishop for cause.

Father Meyendorff stated that a bishop is the defender and advocate of religious and doctrinal matters in the diocese. He testified that there were instances in Orthodox Church history where a bishop severed ties with the Orthodox Church in defense of his diocese. As an example of this, Father Meyendorff referred to his own church, the Russian Orthodox Church in America, which broke ties with the Patriarch of Moscow.

On redirect examination, Father Meyendorff stated that he had an opportunity during a recess in the trial to read two paragraphs of the penal code referred to in the deposition of Bishop Dionisije. While the record is unclear, the two paragraphs were apparently article 67, which deals with due process, and article 90, which covers the jurisdiction of the Holy Assembly and the Holy Synod in cases involving a bishop. Father Meyendorff testified that having read these paragraphs he still maintained that the proceedings against Bishop Dionisije were proper.

Father Zivan Stefanovic, who served as referent in legal matters to the Holy Synod from 1952 until 1965, and was editor of the *Herald,* an official journal of the Serbian Orthodox Church, from 1955 until 1965, was recognized by the court as an expert in the interpretation of the penal code. Father Stefanovic testified that in cases involving bishops the constitution envisioned the Holy Synod as the court of first instance and the Holy Assembly as the court of second instance. He referred to articles 70.35 and 69.27B of the constitution, which provide for these respective courts. Article 63 of the penal code provides for the judgment of a bishop and repeats, in substance, the regulations of the constitution. He stated that article 63 requires the court of first instance to make a decision in the case under consideration. Article 64 of the penal code provides that

the court which had jurisdiction for starting a procedure retains jurisdiction until the end of the procedure. He further stated that under article 69.27 of the constitution and article 78 of the penal code judgments of the court of first instance are appealable to the court of second instance. Father Stefanovic testified that under articles 77 and 124 of the constitution and articles 82.2 and 82.3 of the penal code certain members are prohibited from participating in the judgment of a case when the Holy Synod acts as a court. The same articles apply to the Holy Assembly when it acts as a court. These articles refer to persons who participated in the investigation, were personally interested or were disqualified from the deliberations.

Father Stefanovic said that article 67 of the penal code provides an accused with the right to receive the complaints against him. He testified that during 1963 and 1964 the Serbian Orthodox Church was in the practice of providing copies of the complaints to the accused under this article. During the 30 years he was involved in court proceedings, there was never an occasion when an accused was not provided with the written complaints to which he could reply. Father Stefanovic asserted that under article 67 of the penal code the proper procedure for conducting an investigation requires the investigator to set up a time and place for the accused and witnesses to appear before him at a hearing. The witnesses are called individually to explain what they saw, heard or experienced, and the accused is then given an opportunity, through the investigator, to request further explanation. Unsigned complaints, he stated, cannot even be given to the investigator under article 65 of the penal code.

Father Stefanovic testified he knew of no case in the Serbian Orthodox Church where a bishop was removed

from a diocese without his consent or agreement. He stated that under article 217 of the constitution a clergyman or bishop can be transferred into another parish or diocese only after the judgment of a church court, and under article 111 a bishop can be removed only by canonical verdict resulting from a trial by the Holy Synod in the first instance. He stated further that articles 216 and 217 of the constitution and article 55 of the penal code provide penalties for offenses of a serious nature, which include transfer to another place of service, and loss of a place of service for those who are not parish priests. Under article 218 of the constitution and the third paragraph of article 67 of the penal code, no one can incur any church penalty without a prior hearing. Father Stefanovic said that article 71 of the penal code mandates the steps the Holy Synod must take when it acts as a court. It must consider all documents and, on the basis thereof, vote first on the issue of guilt and, finally, on the question of punishment.

During his testimony Father Stefanovic related his contact with the proceedings against Bishop Dionisije. Among these incidents, he stated he was called by the Holy Synod on December 10, 1963, along with a theology professor to give an expert opinion as to the offenses of Bishop Dionisije. He was asked whether the written complaints should be furnished to Bishop Dionisije as he had requested. Father Stefanovic told the Holy Synod that the written complaints should be furnished, since the penal code and the practice in previous years dictated it. Following this occurrence, Father Stefanovic had no further contact with the proceedings until March, 1964, when he was told the decision of the Holy Assembly and was assigned to draft the formal judgment.

Father Stefanovic gave his opinion as to the proceedings against Bishop Dionisije. He stated that under the Serbian Orthodox Constitution and the penal code the Holy Assembly could not transfer Bishop Dionisije to a newly created diocese without a previous hearing, investigation and judgment brought by the Holy Synod. The process of the investigation commission did not conform with the law of procedure, since the commission did not hold a hearing of witnesses or collect proof of the charges. The accusations and allegations against Bishop Dionisije were taken as evidence when, in fact, these complaints had to be proved. Moreover, Bishop Dionisije was not given an opportunity to answer all the accusations, nor did he receive proof of the charges which were used to describe his offenses and upon which the judgment was based. Father Stefanovic maintained that Bishop Dionisije could not be deposed from his diocese before the Holy Synod entered judgment that his transgressions were proved and that he was to be punished by deposition. Bishop Dionisije was not furnished with a copy of the amended indictment, which contained the most serious offenses, before it was submitted to the Holy Assembly. Father Stefanovic stated that even assuming the Holy Assembly was competent to judge Bishop Dionisije in the first instance, it should not have considered the amended indictment, since the prosecution did not follow the prescribed procedure. It was noted that the indictment itself provided on the first page that the Holy Synod was authorized under the constitution and the penal code of the Serbian Orthodox Church to judge in the first instance the case of Bishop Dionisije. Father Stefanovic concluded that the defrockment was improper because the Holy Assembly acted as the court of first instance in violation of article 70.35 of the Serbian Orthodox Constitution, and by this procedural violation Bishop Dionisije was precluded from having a court of second instance to which to appeal.

On cross-examination, in an apparent attempt to discredit Father Stefanovic's credibility, plaintiffs brought out that he was the subject of disciplinary proceedings by the Serbian Orthodox Church following his departure from Yugoslavia in 1965. During his cross-examination on the penal code, Father Stefanovic made reference apparently to article 66, which provides, basically, that if a person charged with a violation refuses to participate in the proceedings, then it is considered that he acknowledges the charges against him and due process will be concluded without his participation.

Numerous persons testified at trial who purportedly had witnessed or accused Bishop Dionisije of personal misconduct. These persons had all been named in the indictment or the enclosures to it. While it is unnecessary to relate the content of this testimony, since the trial court did not base its decision on the alleged personal transgressions of Bishop Dionisije, we note that the majority of these witnesses testified that they had no knowledge of any personal misconduct by Bishop Dionisije, had not made any accusations against the bishop, and had never been interviewed by the 1963 investigation commission. Between this majority and the minority who did testify as to personal misconduct by Bishop Dionisije, there were factual disputes as to the occurrence of the alleged specific incidents. Certain members of this minority group admitted that some accusations they had made were not based on personal knowledge, but on information they had received from other people. Some members of this minority were clergy, and they admitted that they had previously been disciplined by Bishop Dionisije. And, finally, certain members conceded that they had never been interviewed by the 1963 investigation commission.

Three primary issues are raised in this appeal. Bishop Dionisije challenges the validity of his transfer, deposition and defrockment. Secondly, plaintiffs contend that the Holy Assembly of Bishops had the power to reorganize the American-Canadian Diocese into three new dioceses. And, finally, the American-Canadian Diocese and the monastery corporation, defendants herein, argue that the relationship between the Serbian Orthodox Church and the Diocese has been terminated by either the attempted reorganization of the Diocese by the Holy Assembly of Bishops or by the November, 1963, resolutions of the Diocesan National Assembly. Antecedent to the first issue, and less specifically to the remaining issues, is the question whether the decision of the highest church authority can be reviewed by the civil courts.

Plaintiffs argue and defendant Bishop Dionisije does not dispute that the Serbian Orthodox Church is a hierarchical and episcopal church. Moreover, the parties agree that in cases involving hierarchical churches the decisions of the proper church tribunals on questions of discipline, faith or ecclesiastical rule, though affecting civil rights, are accepted as conclusive in disputes before the civil courts. (See *Watson* v. *Jones,* 80 U.S. (13 Wall.) 679, 727, 20 L. Ed. 666, 676; *Gonzalez* v. *Roman Catholic Archbishop,* 280 U.S. 1, 16, 74 L. Ed. 131, 137, 50 S. Ct. 5.) All parties maintain that the sole limitation on this rule, when civil courts may entertain the "narrowest kind of review," occurs when the decision of the church tribunal is claimed to have resulted from fraud, collusion or arbitrariness. (*Gonzalez* v. *Roman Catholic Archbishop,* 280 U.S. 1, 16, 74 L. Ed. 131, 137, 50 S. Ct. 5; *Presbyterian Church* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church,* 393 U.S. 440, 447, 451, 21 L. Ed. 2d 658, 664, 89 S. Ct. 601.) Plaintiffs assert that they are unable to cite any case wherein a court has interjected itself into a dispute on this basis. And plaintiffs urge that the trial court was correct in its finding that Bishop Dionisije failed to prove that his suspension, transfer, deposition and defrockment resulted from fraud, collusion or arbitrariness.

Having reviewed the record, we find that Bishop Visarion's testimony as to the correct procedure for trial of a bishop was contradictory, and Father Meyendorff's opinion in regard to Bishop Dionisije's deposition and defrockment was premised upon an assumption which did not consider the penal code. Conversely, Father Stefanovic, who served as legal referent to the Holy Synod and was obviously viewed by it as a legal expert, stated that Bishop Dionisije's transfer, deposition and defrockment were in violation of the constitution and the penal code of the Serbian Orthodox Church.

We note that while Bishop Visarion viewed the Holy Assembly's action on July 27, 1963, as a "release" of Bishop Dionisije under article 111 of the constitution and not as a removal, other witnesses were not in accord. Father Meyendorff, a witness called by the plaintiffs, referred to the Holy Assembly's action as the deposition of Bishop Dionisije and his removal from his duties in the American-Canadian Diocese. Father Stefanovic also viewed the action as a removal from the Diocese. Moreover, plaintiffs argue in their brief that the action was a proper "removal" under the constitution and the penal code of the Serbian Orthodox Church.

Article 66 of the penal code provides that if a person charged with a violation refuses to participate, due process will be concluded without his participation. The applica-

tion of this provision, however, must be viewed from the perspective that Bishop Dionisije refused to participate because he maintained that the proceedings against him were in violation of the constitution and the penal code of the Serbian Orthodox Church.

In determining the issue before us, this court has limited itself to the "narrowest kind of review," to what Justice Frankfurter referred to as "one aspect of the duty of courts to enforce the rights of members in an association, temporal or religious, according to the laws of that association." (*Kedroff* v. *St. Nicholas Cathedral of the Russian Orthodox Church in North America,* 344 U.S. 94, 122, 97 L. Ed. 120, 139, 140, 73 S. Ct. 143 (concurring opinion).) Similarly, this court recognized in *Schweiker* v. *Husser,* 146 Ill. 399, 415, 425, that the decisions of the highest church authority properly within the sphere of ecclesiastical matters are not binding upon civil courts if "they are clearly and manifestly repugnant to the established laws" of the church authority, or "in clear and palpable excess of its own jurisdiction • • •." Though this rule was expressed in *Schweiker* decades before the decision in either *Gonzalez* v. *Roman Catholic Archbishop,* 280 U.S. 1, 16, 74 L. Ed. 131, 137, 50 S. Ct. 5, or *Presbyterian Church* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church,* 393 U.S. 440, 447, 451, 21 L. Ed. 2d 658, 664, 89 S. Ct. 601, it is consistent with the limitation on judicial review enunciated by the United States Supreme Court in these later cases.

A detailed review of the evidence discloses that the proceedings resulting in Bishop Dionisije's removal and defrockment were not in accordance with the prescribed procedure of the constitution and the penal code of the

Serbian Orthodox Church. While plaintiffs have argued that the evidence demonstrated Bishop Dionsijie's defiant and dissident attitude toward the Serbian Orthodox Church, this, nevertheless, is not a factor in determining whether the prescribed church procedures were followed in the proceedings against him. Accordingly, the trial court's finding that Bishop Dionisije's removal and defrockment were not the result of arbitrariness must be set aside as contrary to the manifest weight of the evidence. The question of Bishop Dionisije's suspension under church procedure has not been challenged, and there is no evidence of impropriety in regard to it. Thus, the trial court's finding in this matter will not be disturbed. *We note, however, that article 19 of the Serbian Orthodox constitution provides for suspension until the verdict of the church court is rendered, and "the court is obligated to make a decision within a period of one year." Since no valid action to resolve this matter was effected by church authorities within this period, it would appear from the language of article 219 and the testimony of Father Meyendorf[f], previously set forth in relation thereto, that the suspension of Bishop Dionisije is not presently effective.* Moreover, because Bishop Dionisije's removal and defrockment were in violation of church procedure, consideration of the remaining charges need not be undertaken.

Plaintiffs maintain that the reorganization of the American-Canadian Diocese into three new dioceses was authorized by the constitutions of both the Serbian Orthodox Church and the American-Canadian Diocese. Plaintiffs' contention, however, rests upon the premise that the American-Canadian Diocese is no different from any other diocese over which the Serbian Orthodox Church

has complete authority. The issue involved here was considered and resolved adversely to plaintiffs in both the appellate court and the trial court on remand. The appellate court opinion, which was based solely upon the pleadings, depositions and affidavits, properly disposed of this issue. 72 Ill. App. 2d 444, 458-59.

As recognized in *Watson* v. *Jones,* 80 U.S. (13 Wall.) 679, 20 L. Ed. 666, 670, the United States Supreme Court stated:

> "Religious organizations come before us in the same attitude as other voluntary associations for benevolent or charitable purposes, and their rights of property, or of contract, are equally under the protection of the law, and the actions of their members subject to its restraints. Conscious as we may be of the excited feeling engendered by this controversy, and of the extent to which it has agitated the intelligent and pious body of Christians in whose bosom it originated, we enter upon its consideration with the satisfaction of knowing that the principles on which we are to decide so much of it as is proper for our decision, are those applicable alike to all of its class, and that our duty is the simple one of applying those principles to the facts before us."

While the constitutions of the American-Canadian Diocese and the Serbian Orthodox Church deal primarily with religious matters, they do contain clear and specific provisions concerning the relationship between the Diocese and the Serbian Orthodox Church as regards administrative autonomy. A consideration of these constitutions in regard to the "full administrative freedom" enjoyed by the Diocese does not in any way entangle this court in the determination of theological or doctrinal matters. (See *Maryland and Virginia Eldership of the Churches of God*

v. *Church of God,* 254 Md. 162, 254 A.2d 162, *appeal dismissed,* 396 U.S. 367, 24 L. Ed. 2d 582, 90 S. Ct. 499.) The determination of this issue is made without the resolution of doctrinal questions and without extensive inquiry into religious polity. The fact that the provisions of the constitutions pertinent to this issue are interspersed with other provisions relating to religious rites and doctrines does not preclude judicial review. It is doubtful that there are many church constitutions, charters or documents concerning the relationship and rights between two religious bodies that cannot be said to contain provisions relating to religious rites or doctrines. Therefore, to hold that review is precluded would leave the principle expounded in *Gonzalez* and *Mary Elizabeth Blue Hull* without meaning.

The issue raised here is analogous to the first issue. Bishop Dionisije maintained the proceedings against him were not in accord with the requirements of the constitution and the penal code of the Serbian Orthodox Church. Here, the American-Canadian Diocese maintains the reorganization was in violation of the constitutions of the Diocese and the Serbian Orthodox Church. The determination of this issue, as with the first issue, is merely the enforcement of "the rights of members in an association • • • according to the laws of that association." *Kedroff* v. *St. Nicholas Cathedral of the Russian Orthodox Church in America,* 344 U.S. 94, 122, 97 L. Ed. 1120, 140 [*sic*], 73 St. Ct. 143 (Frankfurther [*sic*], J., concurring opinion).

The early history of the Serbian Orthodox churches in America and of the American-Canadian Diocese itself manifested a clear intention to retain independence and autonomy in its administrative affairs while at the same time becoming ecclesiastically and judicially an organic

part of the Serbian Orthodox Church. The constitution of the Diocese evidences and accomplishes this intent. Article 2 [*sic*] states that the Diocese is considered "ecclesistically-judicially as an organic part" of the Serbian Patriarchate. The article recites no reference to administrative control by the Patriarchate, and, in point, article 3 provides that the Diocese "enjoys full administrative freedom" and can "independently regulate and rule" the activities of the church within the "entire political territory of the United States and Canada.

The desire for administrative freedom is further indicated by the fact that initial provisions of the diocesan constitution, which the Holy Assembly would not accept as a condition for approval, provided that the Diocesan National Assembly would elect its own bishop and have the exclusive right to amend the constitution. The Diocese did not surrender its complete power in regard to this latter provision, for the Holy Assembly may only approve changes introduced and adopted by the Diocesan National Assembly. We conclude, as did the appellate court, that it is inconceivable that the Holy Assembly, which is without an express power to alter or amend the diocesan constitution, has an implied power to utterly revoke that constitution by decreeing that the Diocese ceases to exist.

The constitution of the Serbian Orthodox Church, adopted three years after the constitution of the American-Canadian Diocese was approved, is not contrary to this conclusion. Article 12 states that the church's main administrative division is the diocese in regard to both church *hierarchical* and *administrative* aspects. Article 14 states, "These are the Dioceses in the Serbian Orthodox Church," and then lists only those dioceses within Yugoslavia. The American-Canadian Diocese, prior to May 10, 1963, was

listed in article 15, which, significantly, covered those dioceses "under the jurisdiction of the Serbian Orthodox Church in *spiritual* and *hierarchical* aspect." These two articles clearly distinguish between those dioceses completely subordinate to the Serbian Orthodox Church in both hierarchical and administrative matters and those dioceses subordinate in only the spiritual and hierarchical aspects. By the placement of the American-Canadian Diocese in article 15, the Serbian Orthodox Church recognized, in its own constitution, its jurisdiction over the Diocese only in spiritual and hierarchical concerns. Article 16 states that decisions regarding the establishment, liquidation, or reorganization of the dioceses are decided upon by the Holy Assembly in agreement with the Patriarchal Council. Plaintiffs have pointed to no statement or interpretation of article 16 by the Holy Synod, Holy Assembly, or the Patriarch that a liquidation or reorganization of a diocese is other than an administrative act, nor have we been able to find any. Defendants maintain that the "reorganization" of the Diocese was administrative, and plaintiffs contend, in a rather oblique argument, that it was both hierarchical and administrative. Even accepting plaintiffs' contention, the constitution of the Serbian Orthodox Church does not grant the Holy Assembly the sole power to "reorganize" the American-Canadian Diocese, and in this regard it is consistent with the constitution of the Diocese. For the above-stated reasons, we find that the division of the American-Canadian Diocese into three new dioceses by the Holy Assembly was "in clear and palpable excess of its own jurisdiction," and as such, it is not binding on civil courts. *Schweiker* v. *Husser*, 146 Ill. 399, 415, 425.

The American-Canadian Diocese and the monastery corporation maintain that the relationship between the

Diocese and the Serbian Orthodox Church has been terminated by reason of the church's breach of the contract between them or by reason of the parties' mutual repudiation. Plaintiffs assert that no contract ever existed, that the Diocesan National Assembly which proclaimed the Diocese completely autonomous was constitutionally illegal, and that the Diocese's attempt to proclaim its complete autonomy was violative of the constitutions of both the American-Canadian Diocese and the Serbian Orthodox Church. Defendants do not contend that the constitution of the Serbian Orthodox Church provides any authority under which the Diocese could proclaim autonomy. Moreover, the constitution of the Diocese states that any amendments adopted by the Diocesan National Assembly must be approved by the Holy Assembly of Bishops.

In considering this issue, a determination must first be made as to what is the actual relationship between the American-Canadian Diocese and the Serbian Orthodox Church. Reviewing the history of the Diocese, as disclosed by the record and the constitutions of the respective parties, we find that the relationship is more than a mere contract or compact. Rather, it is a relationship of religious unanimity wherein people of common faith joined with a recognized higher church organization to further the practice of their faith. The constitutions of the parties are simply the expressions of the temporal laws governing this religious union and are only a minor aspect of it. Actions which are contrary to these temporal laws are not a repudiation or an abrogation of the primary and basic relationship of religious unity.

The attempt of the Diocese to declare its complete autonomy is similar to the attempt of the Holy Assembly

of Bishops to divide the Diocese. Both actions were contrary to their respective constitutions. Neither act, however, was a repudiation of the basic religious unanimity, thereby permitting the parties to abandon their union or to ignore the temporal laws governing their relationship.

Moreover, viewing this issue solely in regard to the respective constitutions, the parties recognize that neither provides for a unilateral withdrawal. As the action of the Holy Assembly in attempting to divide the Diocese was "in clear and palpable excess of its own jurisdiction," so also is the action of the Diocese in attempting to secede. Accordingly, the declaration of complete autonomy by the Diocese is not binding on civil courts. We do not infer, however, that the relationship existing between the American-Canadian Diocese and the Serbian Orthodox Church is the same type of relationship as exists between the Diocese and its respective church-school congregations.

Accordingly, the judgment of the circuit court of Lake County that Bishop Dionisije's deposition and defrockment were proper is reversed; the judgment that the division of the American-Canadian Diocese into three new dioceses was illegal and unenforceable is affirmed; and the judgment that the actions of the Diocesan National Assembly in November, 1963, amending the constitution of the Diocese are without force or effect is affirmed. The cause is remanded to the circuit court of Lake County for further proceedings not inconsistent with the views expressed herein.

Affirmed in part and reversed in part and remanded.

MR. JUSTICE SCHAEFER took no part in the consideration or decision of this case.

Supreme Court, U. S.
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No. 75-292

In the Supreme Court of the United States

OCTOBER TERM, 1975

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA, a Religious Body, et al.,

Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,

Respondents.

BRIEF IN OPPOSITION

[redacted]

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In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-292

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA,
a Religious Body, et al.,

Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,

Respondents.

BRIEF IN OPPOSITION AND CONDITIONAL CROSS PETITION FOR WRIT OF CERTIORARI OF BISHOP DIONISIJE MILIVOJEVICH; THE SERBIAN EASTERN ORTHODOX DIOCESE OF THE UNITED STATES OF AMERICA AND CANADA, AN ILLINOIS RELIGIOUS CORPORATION; AND SERBIAN ORTHODOX MONASTERY OF ST. SAVA, AN ILLINOIS NOT-FOR-PROFIT CORPORATION

TO: The Honorable Chief Justice and Associate Justices of the Supreme Court of the United States

The Respondents, Bishop Dionisije Milivojevich, the American-Canadian Diocese, and the St. Sava Monastery Corporation, respectfully pray that the Petition for Writ of Certiorari to the Supreme Court of Illinois filed herein, be denied and, in the alternative, that if this Court sees fit to grant said Petition for a Writ of Certiorari, the Respondents' Conditional Cross Petition for Writ of Certiorari be granted as well.

RESPONDENTS' APPENDIX

The Appendix to the Petition for Writ of Certiorari fails to comply with Rule 23(1)i, in that the Appendix does not include all of the Opinions of Courts in this case.

Respondents append hereto as Appendix A, the Memorandum Opinion of the Honorable Philip W. Yager, rendered December 31, 1964, and as Appendix B, the Order entered by Judge Yager of the same date. This Opinion and Order were appealed and are the subject of the Opinion of the Second District Appellate Court of the State of Illinois, Justice Davis, appearing in Petitioner's Appendix as Appendix D (A. 60-80). References to our Appendix are indicated by the notation (Res. A. .....).

DEFINITION OF TERMS

HIERARCHICAL—is considered and defined herein at Page 12.

HOLY ASSEMBLY OF BISHOPS OF THE SERBIAN ORTHODOX CHURCH—All of the Bishops of the Serbian Orthodox Church gathered together in annual session. It has legislative and executive authorities as specified in Article 69 of the Constitution of the Church and is the constitutionally designated appellate court for any disciplinary proceedings against a bishop. (Abs. 1519)

HOLY SYNOD—An executive committee composed of the Patriarch and four Bishops whose duties are specified in Article 70 of the Constitution. It is the trial court for disciplinary proceedings against a Bishop. (Abs. 1522)

ORTHODOX CHURCH—A confederation of national churches which recognize a common doctrine as promulgated by certain church councils prior to the 10th Century. Each church (e.g. Greek, Russian, Serbian, etc.) is independent in its affairs from control by any other Orthodox Church. (Abs. 187; 364-7)

PATRIARCH—There are two different types of Patriarchs in the Orthodox Church:

A. Ecumenical Patriarch—The ecumenical patriarch is the spiritual leader of the Orthodox Church. He has no substantive legislative, administrative or judicial powers and is considered the "first among equals". (Abs. 366)

B. Serbian Orthodox Patriarch: A diocesan bishop elected by bishops, clergy, and laymen as titular head and presiding officer at church meetings; he is considered the "first among equals" with respect to the other bishops of the Serbian Orthodox Church.

SERBIAN ORTHODOX CHURCH—One of the fourteen Orthodox Churches with its See in Belgrade, Yugoslavia, hereinafter referred to, without disrespect, as Belgrade, the Belgrade Church or the Patriarchate.

SERBIAN ORTHODOX DIOCESE—There are two types of dioceses in the Serbian Orthodox Church:

A. Diocese in Yugoslavia: Dioceses located in Yugoslavia are governed exclusively by the Constitution of the Serbian Orthodox Church, must submit financial budgets to Belgrade, have no elected officers, all diocesan officials are appointed by the Bishop and their assets are subject to the direct control of the church headquarters in Belgrade.

B. The American-Canadian Diocese: The diocese has its own Constitution approved in 1928 by Belgrade, elects all of its officials from elected representatives of the affiliated congregations, submits no financial budgets to Belgrade, has complete and final authority to manage, convey and dispose of its assets in conformity with the Diocesan Constitution, and initiates all amendments to the Diocesan Constitution.

STATEMENT OF THE CASE

This litigation concerns the control of extensive property interests of the American-Canadian Diocese of the Serbian Orthodox Church. There are no issues of faith or morals, dogma or religious principles involved. All Courts which have heretofore examined this controversy, including voluminous evidentiary material, have agreed that the Belgrade Church is not empowered under the Church Constitution to break up the American-Canadian Diocese into thirds. Belgrade has sought to accomplish this by defrocking the Bishop; the Respondent Bishop Dionisije. The very narrow issue which comes before the Court is not the power of the Church to remove the Bishop, but whether in so doing, the Bishop, under the Church Constitution and Penal Code, was accorded rudimentary due process. The Illinois Supreme Court on examination of the evidence, held that he was not and hence remanded the case.

The Serbian Eastern Orthodox Diocese for the United States of America and Canada owns three large religious-cultural centers throughout the United States. Over 1,200 acres in Pennsylvania, 200 acres in Libertyville, Illinois, and approximately 100 acres in Jackson, California are used for Summer camps, picnic grounds, church buildings and worship, cemeteries, and in the case of the Shadeland property, an old folks home. The Libertyville property, when initially acquired, was under 30 acres. In 1950 the Pennsylvania property was acquired. The Jackson property was acquired in 1962, and substantial improvements were made several years thereafter. Since 1963 the Respondents have expended over $700,000.00 in developing and improving the properties. (Abs. 770-1)

The American-Canadian Diocese is like no other diocese connected with the Serbian Orthodox Church. It had an

independent existence in America and a religious affiliation with the Russian Orthodox Church before the Serbian Orthodox Church of Belgrade, Yugoslavia was re-organized after the First World War in its modern form. It is the only diocese that has its own Constitution and Belgrade has frequently acknowledged its uniqueness, administrative freedom, independence in the use of its property, and its right to govern its activities subject to the laws of the United States and Canada and the Diocesan Constitution. The Diocese has, since 1921, maintained a religious relationship with the Belgrade Church.

Governed by a Church National Assembly (Sabor) composed of elected representatives and clergy from the Serbian Orthodox congregations of the United States and Canada, the Diocese has grown and prospered without interference or assistance from Belgrade. The Respondents, representing the majority of the congregations and faithful of the United States of America and Canada, have been in control and possession of the property since its acquisition. The Diocesan property has been available and used by all Orthodox Serbian laymen who wish to use it, notwithstanding the litigation or the side that they support in this unhappy controversy. (Abs. 767, 770)

In May, 1963 Belgrade, acting under its alleged legislative and administrative authority, amended its Constitution and removed the American Diocese, substituting in its place three new dioceses, the Eastern, Mid-West and Western. At the same time, acting under its Penal-Judicial authority, it purported to suspend Bishop Dionisije and transfer him to the Mid-West Diocese pending inquiry into possible Penal Proceedings against him. Firmilian was appointed as his temporary administrator. Whether he had been appointed temporary administrator of the American-Canadian Diocese or of the Mid-West Diocese,

to which he was later elected Bishop, was the subject of much conflicting evidence.

It is the sworn obligation and duty of Petitioner Firmilian, who purports to be the Administrator of the American-Canadian Diocese (in the place of Bishop Dionisije), to dissolve the Diocese, distribute the assets and enforce Belgrade's decision to fund the three new dioceses. (Abs. 204; 722-5, 187; 225) Those laymen, congregations or clergymen who did not recognize this disposition have been punished by Bishop Firmilian and expelled from the use of the diocesan property and from the Serbian Orthodox Church. (Abs. 356; 726-7; 734)

The Church National Assembly of the Diocese rejected the dissolution and division of the Diocesan property. The Constitutions of the Belgrade Church and the Diocese contain specific provisions prohibiting Belgrade from dividing the American-Canadian Diocese and distributing its property to three new organizations without its consent. All the Courts which have considered this case agree on this.

Belgrade now seeks through the alleged suspension and Penal Proceedings against Bishop Dionisije to install Firmilian as the temporary administrator of the American-Canadian Diocese, expel all congregations, officers and clergy who do not agree with the division decision, substitute his faction, and carry out the division and distribution of the assets.

At the request of Bishop Firmilian for a "rush trial against Bishop Dionisije" (Abs. 1198), the Belgrade Church trampled and ignored the provisions of its Penal Code and its Constitution governing the disciplining of

clerics in order to promptly depose him from the Mid-West Diocese and later defrock him from his ecclesiastical position. In this manner, Firmilian and Belgrade attempted to remove the Bishop's opposition to this property grab.

The Belgrade Church perverted its penal-judicial authority to accomplish a result which it could not accomplish under its legislative or administrative authority.

As a result of its own acts and the amendment of its Constitution, the Serbian Orthodox Church has removed the American-Canadian Diocese from the list of dioceses in its Constitution. The Serbian Orthodox Church no longer recognizes the existence of the American-Canadian Diocese, although the majority of local congregations have continued to support and adhere to the Diocese.

Belgrade operates three new dioceses in America and Canada, each with its own Bishop, property and congregations. The American-Canadian Diocese has continued to operate with its Bishops, property and congregations as it did prior to 1963.

ARGUMENT

I.

THERE IS NO FEDERAL QUESTION PRESENTED BY THE PETITION IN THIS PROPERTY CASE. THIS COURT SHOULD NOT DISTURB THE FINDINGS OF FACT MADE BY THE ILLINOIS SUPREME COURT.

The narrow factual issues decided by the Illinois Supreme Court do not raise a constitutional question. Nor does the judgment of that Court, remanding for further proceedings, merit review here. This case essentially is one involving disputed factual questions concerning construction of associational documents and procedural rights to be accorded in a judicatory proceeding. Questions of faith are not involved. The controlling case law has been relied upon by both sides and cited by the Courts which decided the case. (*Gonzales, Watson, Hull, Sharpsburg, Kedroff*, and *Kreshik*.)

The factual evidence in this case was presented over a period of 18 months in a segmented trial consuming in excess of 100 days.

Over 600 exhibits and 12,000 pages of transcript were generated in the presentation of the evidence on the disputed fact questions. All four Courts which have rendered an opinion on this case have found that this is a church property dispute. There is no Federal Statute, regulation, act, or Federal Constitutional question presented.

The narrow issue decided by the Illinois Supreme Court was whether the decision of the Trial Court was contrary to the manifest weight of the evidence.

The issues presented below were:

A) DID THE BELGRADE CHURCH HAVE THE AUTHORITY TO DISSOLVE THE AMERICAN-CANADIAN DIOCESE AND TAKE ITS PROPERTY FOR DISTRIBUTION AMONG THREE NEW RELIGIOUS ORGANIZATIONS?

All four of the Judges and Courts which have ruled upon this issue have unanimously agreed that the Belgrade Church had no right to dissolve the American-Canadian Diocese and distribute its property and assets among the three Belgrade-created new dioceses:

1) Judge Yager—(Res. A., Pg. 13)
2) Justice Davis—(Pet. App., Pg. 77)
3) Judge Carey—(Pet. App., Pg. 58)
4) Justice Kluczynski—(Pet. App., Pg. 32)

These Courts based their decisions upon the plain language of provisions in the Constitution of the American-Canadian Diocese and the Constitution of the Serbian Orthodox Church. None of these provisions concern any spiritual, religious, hierarchical, or dogmatic questions. They are concerned with the legislative and administrative relationship of the entities.

B) WERE THE PROCEEDINGS AGAINST BISHOP DIONISIJE CARRIED OUT IN ACCORDANCE WITH THE CONSTITUTION AND THE PENAL CODE OF THE SERBIAN ORTHODOX CHURCH?

At the trial of this case, as the Illinois Supreme Court observed, ". . . testimony was presented as to the correctness of the proceedings against Bishop Dionisije under the Constitution and the Penal Code of the Serbian Orthodox Church . . ." (Abs. 16) ". . . the Trial Court did not base its decision on the alleged personal transgressions of Bishop Dionisije . . ." (Abs. 24)

Contrary to the contentions of the Petitioners that the Court weighed the evidence of the guilt or innocence of Bishop Dionisije, the Court reversed the Trial Court's finding of fact because:

> "A detailed review of the evidence discloses that the proceedings resulting in Bishop Dionisije's removal and defrockment were not in accordance with the prescribed procedure of the Constitution and the Penal Code of the Serbian Orthodox Church . . . Accordingly the Trial Court's finding that Bishop Dionisije's removal and defrockment were not the result of arbitrariness, must be set aside as contrary to the manifest weight of the evidence . . . Moreover, because Bishop Dionisije's removal and defrockment were in violation of church procedure, consideration of the remaining charges need not be undertaken." (Abs. 27)

The Supreme Court did not weigh the evidence against Bishop Dionisije; the Court limited itself to the "narrowest kind of review", that of enforcing the rights of members in an association, temporal or religious, according to the laws of that association. (A. 27)

Although the Penal Code and Constitution of the Serbian Orthodox Church, two separate documents, mandated clearly defined offenses, rights, and procedural steps in disciplinary matters against any cleric, the testimony of the participants in the proceedings, the records brought to the Trial Court from the Archives in Belgrade and the documents used in connection with the proceedings established that the rules had been violated in at least the following respects:

1) Bishop Dionisije was punished before he was advised of the charges against him.
2) He was denied copies of the complaints and an opportunity to confront his accusers.

3) He was afforded no opportunity to rebut charges by presenting witnesses in his defense.
4) He was twice convicted on accusations of which he was never apprised.
5) The investigating commission which recommended trial and deposition had not read the accusations against him.
6) Although the Holy Synod was the court with proper jurisdiction, he was not tried by the Holy Synod.
7) He was tried by the Holy Assembly of Bishops which did not have jurisdiction to try him.
8) He was denied the right of Appeal guaranteed to him by both the Constitution and Penal Code.
9) Persons who were disqualified by the clear provisions of the Penal Code participated in the deliberations and "voted" on his guilt.
10) He was denied adequate time and information necessary to make a defense.
11) He was presented with an indictment which omitted the names of alleged accusers, "victims" and witnesses, as well as the times, places and other information necessary to answer.
12) He was charged with offenses upon which the Penal Code Statute of Limitations had expired.

C) WAS THERE A RESCISSION OR REPUDIATION OF THE RELATIONSHIP BETWEEN THE BELGRADE CHURCH AND THE AMERICAN-CANADIAN DIOCESE?

The Illinois Supreme Court ruled against the Respondents' position on this point. It is the subject of Respondents' Conditional Cross Petition, *infra*, pp. 20-23.

II.

REVIEW BY THE SUPREME COURT IS NOT NECESSARY TO RESOLVE ALLEGED CONFLICTING DECISIONS.

None of the local congregation cases referred to in the Petition litigated the issues of the division of the Diocese, the proceedings against Bishop Dionisije, or the mutual rescission question.

The references at Pages 27-28 of the Petition, to ten cases involving this dispute decided by other courts is inaccurate. In five of those cases (*Drajelivich, Radakovich, Ellesin, Holy Resurrection,* and *Keleman*) the Courts ruled against plaintiff's legal position, finding that each local church was "congregational" and the majority of the congregation had the right to control the church affiliations and property. The *Ralich* opinion was disapproved several years later by the same court in *Keleman.*

As there are no diocesan property rights in the property of the local congregations, those decisions have no effect upon the issues before the Court.

This is the only case in which the Diocesan Corporation, Bishop Dionisije, the three Administrators, and the three new Dioceses were parties.

The Illinois Supreme Court has decided the controversy and there are no other Federal or State decisions in contradiction.

III.

PLAINTIFF'S "HIERARCHICAL BLANKET" DOES NOT COVER THE ISSUES.

Petitioners attempt to throw a "Hierarchical Blanket" over all of the acts of Belgrade in order to justify the illegal and unconstitutional acts of their principals. Their

basic unsound premise is that if there is any sort of "hierarchical" relationship existent, the courts have no jurisdiction other than to enforce the hierarchical decision without regard to the real relationship of the parties.

This word of art has both a legal and a religious definition.

A. The Religious Definition:

The word "hierarchical" was defined by Petitioner's ecclesiastical expert, Father Meyendorff, in this testimony:

> ". . . it's difficult to define what a hierarchical church is, but I think that this is the closest definition to that we can get. That the office of the bishop is a divinely-established office. It is not something which comes from man, it's something which comes from God. And its functions therefore, its responsibilities for—to its other bishops—that means essentially unity and fellowship with them, and second to the flock, are both divinely established." (Abs. 370).

The Secretary of the Holy Synod, Father Mladenovich, on direct examination by the Petitioners, testified that the Serbian Eastern Orthodox Church is hierarchical because it has three ranks of clergy: bishops, priests and deacons. (Abs. 141). Bishop Visarion, testifying for Petitioners, defined hierarchy in terms of the three positions of honor (bishop, priest and deacon) among the clergy of the church. (Abs. 221).

Father Meyendorff, Petitioners' witness, stated that among the orthodox autocephalous churches (e.g. Russian Orthodox, Serbian Orthodox, Greek Orthodox) there is a "hierarchical authority." (Abs. 366). Father Meyendorff explained that the "hierarchical authority" refers to the position of the Patriarch of Constantinople who has the "primacy of honor" among the patriarchs of the orthodox church. However, this "hierarchical author-

ity" has no power "over the internal affairs of the churches." (Abs. 366 [Note: mistake in Abstract where "eternal" appears instead of "internal."]).

Bishop Irinej agreed with Father Meyendorff, Father Mladenovich, and Bishop Visarion that hierarchy refers to the levels of clergy and the spiritual and dogmatic things of the church which cannot be changed. He also noted that the hierarchical structure of the church relates to spiritual and dogmatic things as opposed to the external affairs connected with administration and the physical existence of the church in the world. (Abs. 747-8)

B) The Legal Definition:

The legal definition of "hierarchical" is set forth in *Watson* v. *Jones,* 13 Wall. 679, 722 (1871) in these terms:

> "Where the ecclesiastical body holding the property is but a subordinate member of some general church organization in which there are superior ecclesiastical tribunals with a general and ultimate power of control, more or less complete, in some supreme judicatory over the whole membership of the general organization."

It is obvious that Father Meyendorff and the United States Supreme Court do not mean the same thing when they refer to a hierarchical relationship.

All of the Courts which have considered this case have agreed that the American-Canadian Diocese-Patriarchate relationship is not a strict *Watson* v. *Jones* situation. The History of the Diocese, its Constitution, the Constitution of the Patriarchate and the admissions of the Patriarchate confirm and establish this autonomy.

The American-Canadian Diocese had independent existence and status before the Serbian Patriarchate was formed after World War I. (Abs. 380). It maintained religious-hierarchical relationships with the Russian Orthodox Church before World War I but the Church National Sabor ruled "autonomously." (Abs. 1015). The Russian Orthodox Church commissioned Father Mardary ". . . for the purpose of organizing an independent Serbian Diocese . . ." (Abs. 1032).

In 1928 the Assembly and Synod acknowledged "the autonomous organization" and "autonomous administration" of the American-Canadian Diocese at the time that the diocesan constitution was accepted, approved and reprinted (DX 51, Abs. 1057-62). The Holy Synod stated that the diocese was to operate with "the widest possible autonomy" in a country "where the freedom of its citizens is so great and known." (Abs. 1060).

In 1945 the Belgrade bishops rendered a Decision in response to a complaint by the Communist government against Bishop Dionisije stating:

> "Furthermore, the American Serbian Orthodox Diocese, which is in organic ties with the Serbian Patriarchate, has its separate constitution by which in reference to its external independent activities is responsible and governed only according to the laws of the United States of America." Citing Article 8 of the diocesan constitution. (DX 220, Abs. 1239-40).

At the October 3, 1963 meeting of the Synod a resolution passed saying:

> "1. That all the rights of the former American-Canadian Diocese as they relate to the autonomy, in the administrative sense, remain unchanged. The only exception is the forming of three dioceses and
>
> "2. That the constitution of the former American-Canadian Diocese remains the same and that the dioceses in America and Canada will not, in an administrative sense, the management (or *direction* of the properties) be managed (or *directed*) in the same manner as those in Yugoslavia." (PX 128, Abs. 1692).

The relationship between the Patriarchate, the American-Canadian Diocese and the local congregations is not a *Watson* v. *Jones* hierarchical relationship:

1. It is the only Serbian Orthodox diocese with its own constitution. (Abs. 749-50; A. 225)

2. The Serbian Orthodox Church has no right, title or interest in any of the diocesan assets. (Abs. 1489).

3. The American-Canadian Diocese has no right, title or interest in any of the assets of the member congregations. (Abs. 1489).

4. The diocese is controlled by its constitutional Church National Assembly (Sabor) composed of clergy and laymen elected by member congregations. (Abs. 1451-2).

5. The Diocesan Council, the chief executive body, is elected by the Church National Assembly. (Abs. 1452).

6. The diocese has complete and final authority to manage, convey and dispose of its assets in conformity with the diocesan constitution. (Abs. 1451-2).

7. The Diocesan Assembly initiates and approves amendments to the diocesan constitution, subject only to the approval of Belgrade. (Abs. 1452).

8. Dioceses and congregations in Yugoslavia are required to submit financial budgets to the Patriarchate for approval. (Abs. 1585). Neither the American-Canadian Diocese nor its congregations are subject to such control.

9. The membership of the American-Canadian Diocese support it by voluntary contributions and morally obligatory assessment. (Abs. 1492).

10. The local congregations of the American-Canadian Diocese elect their priest by majority vote of the congregation. (Abs. 1482). The priests of the Yugoslavian con-

gregations are appointed by the diocesan bishop. (Abs. 1557).

11. Voting members of the local congregations composing the American-Canadian Diocese are elected to membership by the voting members of the local congregation and must pay dues to maintain those rights. (Abs. 1469) No such practice exists in Yugoslavia. (Abs. 749).

12. There are Serbian Orthodox congregations existent in the United States which are not members of the American-Canadian Diocese or the Belgrade church and are independent of both. (Abs. 781; 381-2).

The administrative structure of the American-Canadian Diocese gives total self government to the local congregations with respect to their property and complete autonomy to the Church National Assembly with respect to the property of the diocese. There is no provision in either constitution requiring the consent of any general Serbian Church authorities in Belgrade with respect to the management or use of property in the United States and Canada.

The real relationship between the local church and the Hierarchical Eldership was examined by the Supreme Court of Maryland in *Maryland and Virginia Eldership* v. *Church of God,* 254 A. 2d 162 (1969) App. dis., 396 U.S. 367, 90 S. Ct. 499 (1970). The local congregations which had separated from the Eldership and refused to accept ministers appointed by the Eldership won the case. The hierarchy's appeal to the Supreme Court was dismissed with the finding that the Maryland Court of Appeals followed neutral principles of law in making the decision. In the Maryland case the appellants contended that the property rights of a local church follow "as an incident from ecclesiastical determinations of the identity of clergymen entitled to use church property pursuant to the Elder-

ship's itinerant plan" and that "without effective discipline and control over the clergy there would not long be purity of doctrines according to denominational standards in any event." (P. 170).

These arguments, identical to the arguments of the Petitioners, are answered by the Maryland Supreme Court:

> "We do not understand that the decision in *Hull* requires the State equity courts to provide effective discipline in control of a denomination over its clergy or to maintain that denomination's 'purity of doctrine.' As we see it, this would be 'establishment of religion' with a vengeance, and under neither the Maryland law nor under the prohibitions of the First Amendment are we permitted to do this. We have no right to prevent the local congregations from separating from the Eldership and from refusing to accept the ministers appointed by the Eldership. To do this would deny to the members of the local congregation their freedom of religion and would in effect put the judicial power of the state behind the enforcement of the doctrine and discipline of the Eldership thus, in effect, 'establishing' the religion promulgated by the Eldership. This we are forbidden to do.
>
> "Nor, in our opinion, does the local property follow 'as an incident' of the power of the Eldership to appoint clergymen for a local congregation. . . ." (P. 170).

The Maryland decision is based upon an analysis of the church constitutions, the religious corporation law and the deeds to the property—neutral principles of law. Yet, once again, the hierarchy lost.

In 1971 the United States District Court in Maryland found against the hierarchy. *Smith* v. *Church of God,* 327 F. Supp. 6 (1971). The court disposed of petitioner's argument in this manner:

> "Whether or not the structure of the denomination in this case is 'hierarchical' in its policy with respect to some matters is irrelevant. The central point is that, with respect to the use and control of local church property, neither the constitution of the general eldership, nor the corporate deeds or other agreements between the eldership and the local churches involved in this case, provided for the reverter of church property upon local church withdrawal." (P. 13).

The hierarchy lost the *Hull* case upon remand to the Georgia Supreme Court. The United States Supreme Court denied certiorari. 167 SE 2d 658 (1969) cert. denied 396 U.S. 1041, 90 S. Ct. 680.

The commentator of the annotation at 52 ALR 3d 334 concludes from the relevant cases:

> "Although both the Roman Catholic and the Eastern Orthodox Churches are, in their general ecclesiastical structure, hierarchically organized, only the Roman Catholic Church has consistently been held to have control of local church property in disputes with local congregations. Cases involving Serbian Orthodox or other orthodox churches have reached varying results, depending upon the particular circumstances presented."

In *Romanian Orthodox Missionary Episcopate of America* v. *Trutza,* 205 F.2d 107 (C.A. 6th, 1953) the Court of Appeals recognized the right of the "Heirarchical" American Romanian Orthodox Diocese to dis-affiliate from the "Hierarchical" Romanian Orthodox Patriarchate.

CONCLUSION

The Respondents respectfully pray that the Court deny the Petition for Writ of Certiorari to the Illinois Supreme Court.

CONDITIONAL CROSS-PETITION OF THE SERBIAN EASTERN ORTHODOX DIOCESE OF THE UNITED STATES OF AMERICA AND CANADA, AN ILLINOIS RELIGIOUS CORPORATION AND SERBIAN ORTHODOX MONASTERY OF ST. SAVA, AN ILLINOIS NOT FOR PROFIT CORPORATION.

As we have stated above, we believe that the Petition for *Certiorari* should be denied. In the event the Petition is granted, however, the respondent Diocese asks that the Court also grant this Cross-Petition on its part to review that aspect of the decision of the Supreme Court of Illinois which, in the view of the Diocese, denies it equal protection of the laws.

Specifically, we believe the Supreme Court of Illinois has held that the Diocese has no right to the protection of the civil law in matters of property or contract where the Belgrade Church is involved. The decision of the Court did not, of course, state this is express terms, but we think that is what the following language means:

> "Reviewing the history of the Diocese, as disclosed by the record and the constitutions of the respective parties, we find that the relationship is more than a mere contract or compact. Rather, it is a relationship of religious unanimity wherein people of common faith joined with a recognized higher church organization to further the practice of their faith. The constitutions of the parties are simply the expressions of the temporal laws governing this religious union and are only a minor aspect of it. Actions which are contrary to these temporal laws are not a repudiation or an abrogation of the primary and basic relationship of religious unity." (A. 33)

It is obvious enough that the total relationship between the parties is indeed more than a "mere contract or compact," since the relationship includes their common religious faith. But whatever the relationship between the parties may be in ecclesiastical terms, it is, in terms of the civil law, contractual. It is based upon a mutual, express agreement to respect each others' rights as set forth in the respective constitutions. In *Ferraria* v. *Vasconcelles,* 23 Ill. 456, 460 (1860), the Illinois Court recognized that the constitutional relationship between a Presbyterian church and its Presbytery is one in which ". . . organized bodies have entered into a compact or agreement . . ." Similarly, the constitution of an individual church is considered to be a contract among the members. See *Bear* v. *Heasley,* 98 Mich. 279, 57 N.W. 270, 280 (1893) ("The relations between the members of this association is one of contract, and the confession of faith and constitution constitutes the terms of the agreement, which is binding upon all."); *Landrith* v. *Hudgins,* 121 Tenn. 452, 120 S.W. 783, 792, 806 (1907); See also *Mitchell* v. *Albanian Orthodox Diocese in Amer., Inc.,* 355 Mass. 278, 244 N.E. 2d 276, 279 (1968) (by-laws of diocese, a religious corporation, held ". . . a contract between the members and the Diocese.").

Each of the courts which has considered this matter has held that Belgrade violated the rights of the Diocese when it attempted to dissolve the Diocese and distribute its assets among three newly created dioceses. We believe that this action by Belgrade was a violation of the basic compact between the parties which, in terms of the civil law, amounted to a material breach of contract. Ordinarily, a material breach by one party will entitle the other party to rescind. See *e.g.,* 17 A., C.J.S., Contracts, Section 429:

> "An outright refusal of one party to a contract to perform the contract or its essentials constitutes such a repudiation as to entitle the other party to treat

the contract as rescinded. Where one party abandons or disavows the contract and makes a demand based upon new terms not a part of the contract, the other party may rescind the contract.

• • •

The test in determining whether there has been a repudiation of a contract by one of the parties so as to warrant the other in rescinding is whether the acts and conduct of the party evince an intention no longer to be bound."

It hardly needs argument to demonstrate that, in amending defendant out of its constitution and dispatching emissaries to oversee defendant's dissolution and the transfer of its assets to new dioceses, Belgrade was "evincing an intention no longer to be bound" by the basic compact between the parties.

Did the Diocese have any legal remedy for this breach by Belgrade? To say that it did not would be to say that religious corporations have no contract or property rights under the civil law. This, of course, is not the case. As this Court observed, in what is perhaps the most frequently cited case in this area of the law, *Watson* v. *Jones,* 80 U.S. (13 wall.) 679, 20 L.Ed. 666, 670 (1872):

"Religious organizations come before us in the same attitude as other voluntary associations for benevolent or charitable purposes, and their rights of property, or of contract, are equally under the protection of the law, and the actions of their members subject to its restraints. Conscious as we may be of the excited feeling engendered by this controversy, and of the extent to which it has agitated the intelligent and pious body of Christians in whose bosom it originated, we enter upon its consideration with the satisfaction of knowing that the principles on which we

are to decide so much of it as is proper for our decision, are those applicable alike to all of its class, and that our duty is the simple one of applying those principles to the facts before us."

See also 76 C.J.S., Religious Societies, Section 86, p. 874:

"While the civil courts have no jurisdiction over, and no concern with, purely ecclesiastical questions and controversies, they do have jurisdiction as to civil, contract, and property rights even though such rights are involved in, or arise from, a church controversy."

The Illinois Supreme Court has held that, insofar as its relationship with Belgrade is concerned, the Diocese has no contract rights and no access to the civil courts for the redress of wrongs which clearly constitute fundamental breaches of contract. We believe, therefore, that the decision of the Illinois Supreme Court deprives the Diocese of equal protection of the laws in violation of the Fourteenth Amendment to the United States Constitution.

CONCLUSION

The Respondents respectfully pray that this Court deny the Petition for Writ of Certiorari to the Supreme Court of Illinois, or in the alternative, in the event that the Court sees fit to grant the Petition for Writ of Certiorari, to grant Respondents' Conditional Cross-Petition.

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REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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Unfortunately, Respondents' Brief contains a large number of misstatements concerning the contentions of Petitioners, the evidence in the record, and the content of judicial decisions in this case and related cases. Practical limitations on the length of this Reply Brief permit us to note only those misstatements which are particularly significant to the major arguments advanced in opposition to the Petition.

Respondents make four principal arguments. We will reply briefly to each.

I.

RESPONDENTS' QUIBBLES ABOUT THE HIERARCHICAL NATURE OF THE SERBIAN ORTHODOX CHURCH ARE UNFOUNDED.

The Petition noted that this Court has required recognition of the decisions of the highest authorities in hierarchical churches and that the Mother Church is clearly a hierarchical Church. Respondents now appear to dispute the "hierarchical" designation or to argue that the witnesses used "hierarchical" in a different sense than the definition adopted by this Court. This is an unsound attempt to wriggle out of the serious constitutional questions posed by the Illinois Supreme Court's decision.

The Illinois Supreme Court had no such doubts and quibbles. That Court stated (328 N.E.2d at 280):

> "Plaintiffs argue and defendant Bishop Dionisije does not dispute that the Serbian Orthodox Church is a hierarchical and episcopal church. Moreover, the parties agree that in cases involving hierarchical churches the decisions of the proper church tribunals on questions of discipline, faith or ecclesiastical rule, though affecting civil rights, are accepted as conclusive in disputes before the civil courts."

Furthermore, Respondents' "non-hierarchical" arguments contain a basic fallacy. Those arguments are predicated upon some disputed contentions concerning the "autonomy" of the American-Canadian Diocese in governing its internal affairs. But the principal issue raised by the Petition (as is obvious from any reading of the Petition) concerns the unprecedented action of the Illinois Supreme Court in invalidating the Mother Church's disciplinary proceedings against one of its Bishops and in effect requiring the reinstatement of that Bishop. Respondents'

arguments do not touch the principle of hierarchical authority as it relates to the appointment and status of the Bishop or to his authority over the Diocese.

Each Bishop of the American-Canadian Diocese has been elected and appointed by the Mother Church without any prior consultation or approval by the members of the American-Canadian Diocese. Indeed, prior to 1963 each Bishop appointed by the Holy Assembly was a Yugoslav cleric.

Furthermore, the broad powers of the Bishop of the American-Canadian Diocese, who is concededly appointed only by the Mother Church, demonstrate clearly the hierarchical nature of the Church organization even within the Diocese itself. The Bishop has sole power to ordain priests, to consecrate new churches and to appoint the members of the Ecclesiastical Court. He can veto any decisions of the Ecclesiastical Court, the Council, and other Diocesan officials, and require reconsideration. In the event of continued disagreement between the Bishop and the other Diocesan authorities, the issue is referred to the Holy Synod of the Mother Church for resolution. The Bishop occupies the See of the Diocese and has sole authority to convene Diocesan Sabors (Assemblies). He appoints priests to all churches and resolves disputes between priests and congregations. All monastery property is under the direct control of the Bishop. (A. 1447, 1449, 1451, 1460, 1462, 1481-3, 1492).

II.

RESPONDENTS' ARGUMENT THAT DIONISIJE'S REMOVAL IS A DIOCESAN PROPERTY RIGHT ISSUE IS FALSE AND CONTRARY TO RESPONDENTS' OWN ARGUMENTS IN THE LOWER COURTS.

In an effort to fit this case into the "property rights" pigeonhole, Respondents go to the extreme of arguing that all issues, including Dionisije's removal, involve a plot to misappropriate Diocesan assets. That is unsupported by the record and contrary to Respondents' own arguments in the lower courts.

It requires no argument to demonstrate that Respondents' contention is a bald distortion of the issues raised by the Petition and of the Opinion of the Illinois Supreme Court. Both of those documents discuss principally the issue of Dionisije's removal and in no way treat that issue as related to the question of Diocesan reorganization.

Indeed, while Respondents now seek to convince this Court that Dionisije's removal was an inextricable part of so-called "property" issues, Respondents took precisely the opposite position in the Illinois Supreme Court. The Brief of Respondents other than Dionisije (which has been filed as a part of the Record) stated at Page 18:

> "The only other issue is the propriety of the deposition and defrockment of Bishop Dionisije, and that, as we will point out later, is a matter entirely unrelated to the question of whether the corporate defendants are entitled to retain their assets and their autonomy."

Respondents stated at Page 22 of the same Brief:

> ". . . However this Court may decide the case involving Bishop Dionisije, that decision will not be dispositive of the case as it pertains to these remaining defendants. This is because Belgrade stands in a completely different relationship to Bishop Dionisije

> than it does to these defendants. Dionisije holds an office in Belgrade's hierarchy and, under the rules to which he submitted when he accepted that office, he is clearly subject to Belgrade's disciplinary jurisdiction. If cause exists, and if the proper procedures are followed, it cannot be denied that Belgrade has the power to depose and defrock Bishop Dionisije. However, that has no bearing upon the right of these defendants to their continued existence and autonomy."

Respondents' attempts to characterize the Illinois Supreme Court's decision requiring the reinstatement of Dionisije as a Bishop as a resolution of local Church "property rights" is a sham, and a belated sham at that.

Furthermore, Respondents' attempted analogy between this case and a dispute concerning the property of a local church congregation is clearly invalid. The appointment and removal of a Bishop cannot be other than an ecclesiastical issue; it is not transformed into a property dispute merely because the legitimate Bishop will necessarily have possession of a Monastery which is the Diocesan See. *See, Kedroff* v. *St. Nicholas Cathedral of the Russian Orthodox Church,* 344 U.S. 94, 121 (1952), quoted in the Petition at pp. 17-18.

Finally, Respondents' charges that Petitioners' intend to misappropriate Diocesan assets is utterly false. The Record references cited by Respondents do not support the charges made in their Brief and the statements made are grossly inaccurate. The length of this Reply Brief does not permit detailed rebuttal at this time. However, we refer the Court to our Appellees' Brief in the Illinois Supreme Court, (pp. 35-39, 49-52, 95-102) and to our Reply Brief on the Cross-Appeal in that Court (pp. 2-4).

As we noted in the Petition (page 26), Petitioners have always asserted that the Diocesan property is and must be held in trust for the benefit of the members of the Serbian Orthodox Church in the United States and Canada.

III.

NOTHING IN RESPONDENTS' BRIEF DETRACTS FROM THE CONCLUSION THAT THE ILLINOIS SUPREME COURT'S DECISION REQUIRING REINSTATE OF A BISHOP IS UNPRECEDENTED AND IN VIOLATION OF PETITIONERS' CONSTITUTIONAL RIGHTS.

The Petition is based upon the position that the action of the Illinois Supreme Court in parsing internal Church regulations and procedures and invalidating disciplinary proceedings against a Bishop exceeded the limited scope of review of hierarchical Church rulings permitted by this Court's decisions. On this point Respondents' Brief merely contends (pp. 10-11) that the Illinois Supreme Court was correct in determining that the disciplinary proceedings concerning Dionisije violated internal Church regulations as to several of the twelve alleged procedural errors Respondents list.

As we noted in the Petition (page 19), we decline to be drawn into a detailed discussion of each of these twelve items. We do not ask this Court to grant certiorari for the purpose of determining these questions of internal Church procedure. On the merits of those questions it suffices to say that the Holy Assembly determined and Petitioners' expert witnesses testified that there was no violation of internal Church regulations as to any of these matters. The points are argued in detail in our Brief before the Illinois Supreme Court. *See* pp. 70-85.

The issue presented by the Petition is whether the Federal Constitution permits State courts to adopt their own construction of internal Church regulations—when that construction is contrary to that adopted by the Church authorities themselves. The issue is whether the Constitution permits State courts to engage in detailed "administrative review" of ecclesiastical proceedings.

Finally, and perhaps most important, Respondents' Brief completely ignores Dionisije's refusal to cooperate or participate in any stage of the ecclesiastical proceedings and his action in taking the issue instead to the civil courts. The evidence noted in detail at pages 7-10 of the Petition (and not contradicted in any way in Respondents' Brief) shows that Dionisije repudiated the authority of the Church, announced his refusal to participate in the proceedings, and took the matter to the civil courts long before many of the procedural matters of which he now complains had occurred.

Respondents' Brief ignores the right of the Mother Church to try Dionisije's case as a default matter under those circumstances and to base its decision of removal and defrockment in part upon his open and admitted acts of defiance. Respondents' Brief ignores the serious constitutional issue raised by the Illinois Supreme Court's use of its own notions of "due process" to reward Dionisije by reinstatement for his refusal to participate in the ecclesiastical proceedings of the Church of which he was a Bishop.

IV.

RESPONDENTS' CHARACTERIZATION OF THE RELATED CASES IS FALSE.

Respondents attempt to brush aside the Serbian Church cases in jurisdictions other than Illinois cited in the Petition at pages 27-28, by asserting that those cases did not involve the issues before the Illinois Supreme Court or that the courts decided those issues against petitioners. Respondents' characterization is false. Without going into detail, we refer the Court, as examples, to two reported decisions. In *Draskovich* v. *Pasalich*, 280 N.E. 2d 69 (Ind. App. 1972), *reh. den.*, 285 N.E. 2d 830 (1972), *cert. denied*, 414 U.S. 976 (1973), the Indiana Court held that the Mother Church is hierarchical, both in general and in re-

lation to the American-Canadian Diocese. The Court also recognized the validity of the Diocesan reorganization. See also, *Serbian Eastern Orthodox Congregation* v. *Serbian Eastern Orthodox Congregation*, 254 A. 2d 119 (1969), *cert. denied*, 54 N.J. 516, 257 A. 2d 113 (1969), *cert. denied* 397 U.S. 961 (1970), in which the New Jersey Court concluded that there was no basis, either under this Court's decisions or on the evidence, to invalidate the Diocesan reorganization. In both these cases the Courts stated that there could be no review or remedy in the civil courts with respect to the removal proceedings against Dionisije.

CONCLUSION

We respectfully pray that the Petition be granted and that Respondents' Conditional Cross Petition be denied.

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PETITIONERS' BRIEF

OPINIONS BELOW

The Opinion of the Supreme Court of Illinois is reported at 60 Ill. 2d 477 and 328 N.E.2d 268 (A. 1800). The Trial Court's Memorandum Opinion was entered December 28, 1972 and its Final Decree on April 30, 1973 (A. 1767). The opinion of the Illinois Appellate Court in an earlier appeal is reported *sub. nom. Serbian Eastern Orthodox Diocese* v. *Ocokoljich* at 72 Ill. App. 2d 444 and 219 N.E.2d 343 (2nd Dist. 1966) (A. 10).

JURISDICTION

The opinion and judgment of the Supreme Court of Illinois, originally entered on March 24, 1975, were modified on May 29, 1975, upon denial of cross-petitions for rehearing. Petitioners filed their petition for certiorari on August 26, 1975. This Court granted certiorari on October 20, 1975. This Court's jurisdiction is invoked under 28 U.S.C. §1257 (3).

QUESTIONS PRESENTED

1. In the absence of fraud or collusion, is it consistent with the First and Fourteenth Amendments to the United States Constitution for a State Court, in reviewing the procedures followed by the highest authorities of a hierarchical church in removing and defrocking a Diocesan Bishop of that church:

(a) to construe the internal regulations and procedures of that church differently from the construction given by the highest church authorities and, on the basis thereof;

(b) to invalidate the removal and defrockment; and

(c) to reinstate the former Bishop as a Bishop of the church and as Diocesan Bishop?

2. Whether, in the absence of fraud or collusion, a State Court may, consistent with the First and Fourteenth Amendments to the United States Constitution, invalidate the removal and defrockment of a Bishop by the highest authorities of a hierarchical church, on the grounds that the removal and defrockment procedures employed were

erroneous under the State Court's interpretation of internal church laws and regulations and were therefore "arbitrary"?

3. Whether a State Court may, consistent with the First and Fourteenth Amendments to the United States Constitution, weigh documents and testimony of witnesses relating to internal regulations and procedures of a hierarchical church, interpret that internal church law in contradiction to the interpretation made by the highest ecclesiastical authorities of that church and, on that basis, invalidate the removal and defrockment of a Bishop of that church?

4. Whether a State court may, consistent with the First and Fourteenth Amendments to the United States Constitution, determine that the suspension of a Diocesan Bishop and the appointment of an administrator for the Diocese by the highest ecclesiastical authorities of a hierarchical church have expired, when the suspension and appointment are deemed continuing by those ecclesiastical authorities pending final disposition of litigation commenced in a State court by the suspended bishop?

5. Whether a State court may, consistent with the First and Fourteenth Amendments to the United States Constitution, invalidate the reorganization of a diocese by the highest authorities of a hierarchical church, based upon the State court's opinion, contrary to that of those church authorities, that the reorganization violates internal church laws and regulations?

CONSTITUTIONAL PROVISIONS INVOLVED

The constitutional provisions involved in this case are:

1. The First Amendment to the United States Constitution, which provides in pertinent part:

> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ."

2. The Fourteenth Amendment to the United States Constitution, which provides in pertinent part:

> ". . . No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws . . ."

STATEMENT OF THE CASE

Nature of the Action

In 1963, the Holy Assembly of Bishops and the Holy Synod of the Serbian Orthodox Church (hereinafter the "Mother Church"), the legitimate and highest ecclesiastical authorities of that hierarchical church, suspended and ultimately removed Dionisije Milivojevich (hereinafter "Dionisije"), as Bishop of the American-Canadian Diocese of that Church. The Mother Church authorities appointed Bishop Firmilian Ocokoljich (hereinafter "Firmilian") as Administrator of the Diocese and thereafter reorganized the Diocese into three Dioceses. In 1964, they defrocked Dionisije as a Bishop and cleric of the Mother Church.

Dionisije refused to participate in the investigatory, removal and defrockment proceedings which followed his suspension. Instead, Dionisije and a minority faction of the members of the Diocese refused to recognize the proceedings and decisions of the Holy Assembly, attempted to secede from the Mother Church, and refused to accept the Administrator. Furthermore, they asked the Illinois courts to uphold both the validity of their opposition and secession, and Dionisije's unilateral refusal to obey Church law as interpreted by its highest judicatories.

After more than eleven years of litigation, the Supreme Court of Illinois substantially reversed the decree of the trial court and in effect attempted to reinstate Dionisije as a Bishop of the Mother Church and as Diocesan Bishop.

Although no fraud or collusion was claimed by Respondents on appeal or found by the Supreme Court of Illinois, that Court held that the proceedings of the Holy Assembly of Bishops respecting Dionisije were procedurally and substantively defective under the internal regulations and procedures of the Serbian Orthodox Church and were therefore "arbitrary" and invalid. In reaching this conclusion, the Illinois Court undertook to construe the internal regulations of the Mother Church, to adopt the construction of church law espoused by Respondents' witness (a defrocked former Mother Church cleric), and to reject that of the Holy Assembly of Bishops and Petitioners' five expert witnesses. The Supreme Court of Illinois also invalidated both the Diocesan reorganization and Respondents' attempted secession.

Petitioners sought review of the decision of the Supreme Court of Illinois which refused to recognize the decisions of the Holy Assembly on the grounds that the actions of that Court constituted an improper judicial interference in religious affairs and an infringement of the constitutional guarantees of the First and Fourteenth Amendments.

I.

SYNOPSIS OF RELEVANT EVENTS BEFORE 1963

A. The Organization of the Mother Church

The Serbian Orthodox Church (the "Mother Church") is an ancient, autocephalous, hierarchical church* that came into existence in the beginning of the Thirteenth Century. (A. 351).** The Seat of the Church is the Patriarchate in Belgrade, Yugoslavia (PX 68, R. 3031, A. 1141). A substantial majority of church members reside in Yugoslavia, but there are also hundreds of thousands of church members in the United States and other countries.

The Mother Church is episcopal, meaning that it is governed by its Bishops (PX 68, R. 3031, A. 1141). It is undisputed that the highest legislative, judicial, ecclesiastical and administrative authority of the church is the Holy Assembly of Bishops, a group consisting of all Diocesan Bishops (PX 68, R. 3031, A. 1155-56). The highest executive body of the church is the Holy Synod of Bishops, composed of the Patriarch as President and four Diocesan Bishops selected by the Holy Assembly (PX 68, R. 3031, A. 1156). The legitimacy of the Holy Assembly and the Holy

* This Court has stated that "[h]ierarchical churches may be defined as (1) those organized as a body with other churches (2) having similar faith and doctrine (3) with a common ruling convocation or ecclesiastical head." *Kedroff* v. *St. Nicholas Cathedral of the Russian Orthodox Church*, 344 U.S. 94, 110 (1952).

** Record references herein are to the Appendix ("A"). Where exhibits are cited, they are noted as PX (Plaintiffs' Exhibit) and DX (Defendants' Exhibit) and are referenced according to the pages of the Record ("R") at which they were offered, and the pages of the Appendix at which they appear. References to other Briefs indicate the party filing that brief and the court in which that brief was filed. For example, Respondents' Brief in Opposition to the Petition for Certiorari will hereinafter be referred to as "Resp. Cert. Brief".

Synod as the highest church judicatories is not disputed. It is conceded that the exclusive power to appoint, suspend, remove and defrock Diocesan Bishops is vested in the Holy Assembly and the Holy Synod (PX 68, R. 3031, A. 1160-1161, 1163-1164, 1181).

The Mother Church is governed according to the following sources of Law: Holy Scriptures; Holy Tradition; Rules of the Ecumenical Councils; the Regional Councils; The Holy Apostles; the Holy Faiths of the Church; and (since 1931) by the Mother Church Constitution which was adopted in that year (PX 68, R. 3031, A. 1139, 1136). The Mother Church also adopted a "penal code" in 1962 (A. 197; PX 69, R. 3036, A. 1243). The Respondents have premised a number of arguments upon the provisions of the Mother Church Constitution and penal code. The pertinent provisions are discussed at appropriate portions of the Argument and of the Appendices to this brief.

B. The Organization and Administration of the American-Canadian Diocese

In 1921, the Holy Assembly of Bishops created the Serbian Eastern Orthodox Diocese for the United States of America and Canada (hereinafter the "American/Canadian Diocese") for the Serbian Orthodox Church people who had emigrated from Serbia to the United States (A. 272; PX 24, 25, R. 2941-42, A. 1011-1015).* The action was

* Respondents have argued that certain events prior to 1921 are significant; meetings of priests and laymen in 1913 and 1916 (DX 30, 31, A. 1573, 1518); supervision of the Serbian Orthodox congregations in the United States by the Russian Orthodox Church prior to 1920 (A. 358-59); and the dispatch by the Russian Church of Father Mardary, a Serb, to attempt to organize an independent Serbian Diocese in the United States in 1917 (DX 33, A. 1598-1600).

(footnote continued on following page)

taken after receipt of the report of a commission which had been appointed by the Holy Assembly to investigate the situation regarding the approximately 26 congregations then existing and the need for a diocese in the United States. (DX 255, A. 1762-64; A. 276).

Since 1921, the American/Canadian Diocese has been governed by Diocesan bishops appointed by the Holy Assembly or by administrators appointed by the Holy Synod. Each was chosen without consultation with officials of the Diocese. Until the disputed events of 1963, each of these bishops and administrators was a Yugoslav citizen at the time of his initial appointment and each came from Yugoslavia to the United States by reason of that appointment. Each one who did not die in office was removed or recalled by the Holy Assembly or the Holy Synod.

The names, positions, terms of office and previous assignments of the Diocesan Bishops and administrators of the American/Canadian Diocese up to 1963 are shown in the following chart:

However, these unsuccessful efforts to create a Serbian church organization have no significance in characterizing the relationship between the Mother Church and the American-Canadian Diocese after 1921. The proceedings relating to the creation of the American/Canadian Diocese in 1921 do not refer to any pre-existing diocese, or to any negotiations, compacts or agreements with any pre-existing church organization in the United States or Canada. The resolution creating the Diocese recites only the intention of the Mother Church to settle any controversy over common property which might arise between the Serbian Church and the Russian Orthodox Church (PX 25, R. 2941-42, A.1014).

The history of the early years of the Diocese shows the Administrator organizing diocesan institutions (such as the Ecclesiastical Court and Sabors) for the first time (DX 37, A. 1602-04; DX 49, A. 1605-06). There is no indication in this early history of a continuation of an organizational structure created earlier.

Name	Position	Term of Office	Previous Assignment
Nicholai	Administrator	1922-1923	Bishop, Ochrid, Yugoslavia
Mardary*	Administrator	1922-1925	Dean of Monastery
	Bishop	1925-1935	Rakovica, Yugo.
Varnava	Administrator	1935-36	Patriarch, Belgrade, Yugo.
Irinej	Administrator	1936-38	Bishop, Dalmatia, Yugo.
Damaskin	Bishop	1938-39	Bishop, Mukacevo-Prjasero, Yugo.
Dionisije	Bishop	1939-1963	Vicar Bishop in Yugo.**

From 1921 to 1927, there was nothing to distinguish the organization of the American/Canadian Diocese from the organization of any of the other dioceses of the Mother Church. In 1927, Bishop Mardary summoned the First Diocesan Church Assembly, or Sabor. It adopted a draft diocesan constitution. That draft constitution was submitted to the Holy Assembly for approval. (A. 276-77; DX 49, A. 1605-06.) It was approved and went into effect in 1928 after changes were made by the Holy Assembly to

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* Father Mardary had been in the United States earlier (1917). He had been sent by the Russian Orthodox Church to make an attempt (which was unsuccessful) to organize an independent Serbian diocese. This effort resulted from concern by the Russian Orthodox Church about the German occupation of Serbia in World War I. (DX 33, A. 1598-1600.)

** A. 277-78; PX 26, R. 2941-42, A. 1015-16; PX 27, R. 2942, A. 1016-17; PX 32, R. 2949, 1073-74; DX 77, R. 6158, A. 1622; PX 35, R. 2950, A. 1077.
Prior to his consecration as a Vicar Bishop in 1938, Dionisije had served as a priest of the Mother Church in Yugoslavia from 1926 to 1938. He first came to the United States in 1940. (A. 446, 448.)

provide for appointment of the diocesan bishop solely by the Holy Assembly and to require Holy Assembly approval for any amendment to the Diocesan Constitution (DX 51, A. 1608-12; PX 28, R. 2942, A. 1017-19). Until 1963, all proposed amendments to the Constitution were duly submitted to the Holy Assembly for approval (PX 31, R. 2949, A. 1071-73). Respondents have based a number of arguments on provisions of this diocesan constitution. The specific provisions are referred to in the Argument and the Appendices to this Brief.

C. The Property-Holding Corporations

Over the years, a number of not-for-profit corporations were organized by Bishops of the American/Canadian Diocese. In each case, the circumstances indicated that the corporate entities were created for the purpose of holding title to Diocesan real estate.

The first Illinois not-for-profit corporation was incorporated on September 28, 1927. On November 9, 1927, Bishop Mardary conveyed to the new corporation thirty acres of real estate in Libertyville, Illinois, to which he had previously held title, first as sole owner individually, and later as trustee. (PX 91, R. 3091, A. 1394-98; PX 130, R. 3169, 1450-51; PX 131, R. 3170, 1452-56.)* Subsequently, the charter of the 1927 corporation was allowed to lapse.

In 1935, Bishop Mardary, whose health was then failing, organized another Illinois not-for-profit corporation. This corporation was organized pursuant to provisions of the Illinois Religious Corporations Act (Ill. Rev. Stat. Ch. 32

* In 1926, Bishop Mardary placed the property in trust for the "Serbian Orphanage of St. Sava Monastery." The trust provided that if the orphanage was discontinued then, at the Bishop's discretion, the property would be used for the benefit of the Diocese (PX 131, R. 3170, A. 1452-53).

§46(a)-46(h), cited on A. 1400) (currently *id.*, §§176-186) which govern the incorporation of religious societies which are subordinate parts of a larger church organization (see Ill. Rev. Stat. ch. 32 §§187-188) (PX 92, R. 3091, A. 1399-1402). The 1935 corporation never adopted any bylaws and never elected any officers or directors. After their initial appointment, the trustees of the 1935 corporation never held any meetings (A. 296-98). The 1935 corporation is a defendant in this case. The Illinois Supreme Court concluded, solely because the corporation name and the name of the Diocese were the same, that this secular 1935 not-for-profit corporation was synonymous with the Diocese itself, rejecting the contrary findings of the trial court as against "the manifest weight of the evidence" (A. 1802).*

In 1945, the defendant not-for-profit monastery corporation, the Monastery of St. Sava, was organized and the Libertyville property was transferred to that corporation (PX 129, R. 3169, A. 1447-50; PX 136, A. 1459-63). Subsequently, other secular property-holding corporations were created and real estate was conveyed to each to be held under the direct supervision of the Diocesan Bishop; in New York, 1942 (PX 93, R. 3092, A. 1403-04); in California, 1962 (PX 108, R. 3103, A. 1418-23); and in Pennsylvania, 1966 (PX 150, A. 1463-65).

D. The Complaints Against Dionisije

For a number of years prior to 1963, the Holy Synod had received a continuing flow of complaints challenging Dionisije's administration of the Diocese and his fitness

* The Illinois Supreme Court's opinion states that the factual recitation in the opinion "amply discloses [the] basis" for this determination (A. 1802). But an examination of the opinion reveals no facts upon which the finding of the identity of the diocese and the corporation could have been based.

to serve as a Bishop. It is undisputed that all but one or two of these complaints emanated from persons in the United States and Canada. After an initial period in which the complaints were forwarded to Dionisije for his response (DX 119-126, R. 6353-63; DX 134-39, R. 6378-6390; PX 53, R. 2972, A. 1105-06), the Holy Synod adopted a practice of filing the complaints in the archives and notifying Dionisije of their receipt (DX 139).

The trial court, over Petitioners' objections, permitted Respondents to introduce considerable evidence concerning the merits of these complaints. However, neither the trial court nor the Illinois Supreme Court made any findings concerning the validity of the charges. The trial court ultimately concluded the evidence was irrelevant (A. 1777).

For purposes of the appeal, these charges have significance only to demonstrate that the Holy Assembly and the Holy Synod had a reasonable basis for commencing disciplinary proceedings against Dionisije in 1963. This conclusion follows from three undisputed facts: (1) that virtually all of the charges emanated from the United States and Canada (there is no evidence in support of Dionisije's earlier claims that the complaints were instigated from either government or church authorities in Yugoslavia); (2) that a substantial number of complaints continued to be received throughout Dionisije's tenure as Bishop; and (3) that the complaints involved serious charges of misconduct by Dionisije as to both personal and pecuniary matters.

E. Dionisije's Recognition of the Authority of the Holy Assembly and Holy Synod

At the time of Dionisije's elevation to the office of Bishop, he prepared in his own hand and signed his Episcopal-

Hierarchical Oath swearing that he would ". . . always be obedient to the Most Holy Assembly . . ." (PX 37, R. 2954, A. 1078, 1083), and that he would attend meetings of the Holy Assembly (PX 37, R. 2954, A. 1078, 1085). The oath continued:

> ". . . Should I transgress against whatever I promised here, or should I be disobedient to the Divine Ordinances and Order of the Eastern Orthodox Church, or the Most Holy Assembly (of Bishops) I, personally, will become a schismatic and should I make the Diocese entrusted to me in any manner to become disobedient to the Most Holy Assembly (of Bishops), may I, in that case, be defrocked of my rank and divested of the (episcopal) authority without any excuse or gainsay, and (may I) become an alien to the heavenly gift which is being given unto me by the Holy Spirit through the Consecration of the Laying of Hands." (PX 37, R. 2954, A. 1088.)

Dionisije accepted the authority of the Mother Church over matters relating to the discipline of clerics in the Diocese. On numerous occasions, he submitted to the Holy Synod, for final approval, in accordance with the Diocesan Constitution (PX 30, R. 2949, A. 1039-40), judgments issued by the Diocesan Ecclesiastical Court (DX 99, R. 6239, A. 1626-29; DX 101, R. 6242, A. 1629-32; DX 113, R. 6308, A. 1632-33).

In matters pertaining to the appointment of religious officials or the creation of religious organizations or associations in the Diocese, Dionisije always advised the Mother Church and, where necessary, requested its approval. Examples are the appointment of Firmilian as his Episcopal Deputy on May 10, 1955 (PX 61, R. 3008, A. 1122-23); approval of the by-laws of the priest pension fund and the by-laws of the Serbian Charity Home of St. Sava (the Shadeland, Pennsylvania property) (A. 1094-95); and ap-

proval of the by-laws of the clergy association of the Diocese (PX 49, R. 2966, A. 1102). Dionisije also recognized the need for approval by the Holy Assembly of amendments to the Diocesan Constitution (PX 144, p. 70).

Twice in the month preceding his suspension, Dionisije publicly reaffirmed the hierarchical authority of the Mother Church and proclaimed that only the Holy Assembly and the Holy Synod had authority to judge the charges of misconduct made against him.

Thus, on April 17, 1963, Dionisije summoned and presided at a meeting of the Diocesan Executive Board (A. 620-21). Under the auspices of Dionisije, a Resolution (PX 85, R. 3063, A. 1375-77) was unanimously adopted professing *inter alia* that Dionisije and the Executive Board:

(1) stood for spiritual, hierarchical and canonical unity with the Mother Church;

(2) adhered to the proposition that the Serbian Orthodox Church was one church, indivisible and self-governing; and

(3) recognized that the alleged faults and charges against Dionisije could be judged only by the Holy Synod and Holy Assembly as they were the only competent authorities to make decisions with respect to ecclesiastical matters of that type.

On May 8 and 9, 1963, one day prior to his suspension, at the annual meeting of the Clergy Association of the Diocese, attended by Dionisije and 31 other clerics, a Resolution (PX 86, R. 2727, A. 1378-82) was unanimously adopted which stated, *inter alia,* that the Clergy Association:

(1) stood for spiritual, hierarchical and canonical unity with the Mother Church in Yugoslavia and that

the identical stand had been announced on April 17 by the Diocesan Executive Board as well as at prior meetings of the Association;

(2) denounced any suggestion that the religious body (Diocese) in this country was autonomous;

(3) condemned any assertions that the Mother Church was imposing her will upon the religious body in this country at the direction of the present communistic authorities in Yugoslavia; and

(4) resolved that the alleged faults and transgressions of Dionisije of which they had heard and read could only be judged by the Holy Assembly and Holy Synod as set forth in the April 17, 1963 statement of the Diocesan Executive Board, and that the Holy Assembly and Holy Synod would in due course render their decisions and decrees with respect to these charges.

Dionisije was the first to sign and then all those assembled signed (PX 86, R. 2727, A. 1381-82).*

F. Dionisije's Failure to Attend Holy Assembly Meetings

Although Dionisije's Oath (pp. 12-13, *supra*) required him to attend the annual meetings of the Holy Assembly, he never attended a single meeting after he came to the United States in 1940. The record abounds with Dionisije's

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* At the trial, Dionisije testified that he signed the resolution in blank and later renounced his signature (A. 621-22). Father Brkich, who was the presiding officer at the Association meeting, testified, as did numerous other clerics without one dissent, that Dionisije made corrections in the Resolution in his own handwriting and was the first to sign it (A. 692-93, 711; R. 10000-10012, 10050-53, 10151-10157, 10298-10304, 10309-13, 10326-28, 10977-10981, 11069-70, 11149-50).

vague excuses. For example, he excused himself on the ground of "ill health" in 1951, 1952, 1953 and 1963 (PX 40, R. 2959, A. 1091; PX 41, R. 2962, A. 1092; PX 45, R. 2962, 1096; PX 54B, 2987-88, A. 1107), a "multitude of business" in 1959 (PX 48, R. 2962, A. 1100), a "heavy work schedule" in 1960 (PX 50, R. 2966, A. 1103), and his "diocesan duties" in 1962 (PX 56, R. 2996-97, A. 1113).

In 1962, the year before his suspension, Dionisije ignored three personal requests by the Patriarch and by Metropolitan Damaskin (March 2, March 27, April 20) that he attend the May 22, 1962 meeting of the Holy Assembly (DX 142, 143, 144, R. 6475-78, A. 1634-37) and absented himself on the excuse of "diocesan duties" (PX 56, R. 2996-97).

G. Events Leading up to the Diocesan Reorganization

Over a period of time, Dionisije complained to the Holy Assembly that the size and growth of the American/Canadian Diocese required that it be served by more than one Bishop. During 1962, Dionisije wrote to the Holy Synod asking for the appointment of bishops to serve under his supervision (PX 84I, R. 3143, A. 1353; PX 58, R. 2996-97, A. 1118). Dionisije sent a delegation under Father Brkich to the May, 1962 meeting of the Holy Assembly to urge the adoption of Dionisije's reorganization proposals.* (A. 240). In Dionisije's annual report to the Holy Assembly dated September 25, 1962, he reported that for administrative

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* Dionisije instructed the delegation to advise the Holy Assembly that Dionisije's candidates for assistant bishops were three American Serbian Church clerics, Firmilian, Gregory and Stefan (A. 270). These were the very individuals who were appointed by the Holy Assembly in 1963 and whose status has been contested by Dionisije ever since.

purposes, the Diocese was divided into four episcopal districts, the Midwest, the Eastern, the Western and the Canadian (PX 57, R. 2996-97, A. 1116).

During this period, Dionisije urged that the Mother Church reorganize itself to adopt the Greek "metropolitan" system so that several assistant bishops could serve under a metropolitan (PX 84I, R. 3143, A. 1353-55; PX 58, R. 2996-97, A. 1118). The Mother Church had never employed this system and did not permit one bishop to serve under the supervision of another bishop. The other alternatives under consideration by the Holy Assembly were the reorganization of the Diocese into several Dioceses (opposed by Dionisije) or the assignment of vicar bishops (responsible directly to the Patriarch) to perform certain of the Diocesan Bishop's duties in the United States and Canada. (DX 141, R. 6469; PX 218, R. 8277, A. 1681-82).

H. The 1962 Investigating Committee

On June 29, 1962, the Holy Synod appointed three clerics as a delegation to go to the United States and confer with Dionisije with respect to the accusations which had been made against him and to study the proposals for reorganization of the American/Canadian Diocese (A. 187; PX 73, R. 3048, A. 1279-81). The delegation remained in the United States for 88 days, traveling extensively, visiting various Serbian Orthodox parishes and discussing the proposals for reorganization and the complaints against Dionisije (A. 187-92; PX 195A, A. 1482). The committee's report recommended the assignment of vicar bishops to the United States and Canada and the appointment of a commission to investigate the accusations made against Dionisije (PX 195A, A. 1533-34).

II.

THE DISCIPLINARY PROCEEDINGS AGAINST DIONISIJE

The disciplinary proceedings regarding Dionisije centered around three events. First, on May 10, 1963, disciplinary proceedings against Dionisije were commenced and he was suspended pending the outcome of those proceedings. Second, after Dionisije had refused to accept his suspension or to cooperate with the investigating commission, and had publicly denounced, insulted, and defied the Church, he was released or removed as diocesan bishop on July 27, 1963. Third, after he had refused to answer an indictment sent to him by the Mother Church, the Holy Assembly defrocked him on March 5, 1964.

A. The Suspension of Dionisije

The Holy Assembly of Bishops in its morning session on May 10, 1963 unanimously recommended that the Holy Synod institute disciplinary proceedings against Dionisije (A. 167; PX 2, R. 2931, A. 902-04).

Pursuant to the recommendation of the Holy Assembly, the Holy Synod suspended Dionisije and appointed Firmilian Ocokoljich ("Firmilian"), Dionisije's chief episcopal deputy since 1955, as Administrator of the American/Canadian Diocese, pending disposition of the charges against Dionisije (A. 167; PX 1, R. 2931, A. 901-02).

In its afternoon session on May 10, the Holy Assembly, resolving the various proposals for the assignment of additional bishops to reflect the growth of the Church in the United States and Canada, reorganized the American/Canadian Diocese into three Dioceses, appointing the suspended Dionisije as Bishop of one of the three Dioceses.

The boundaries of the three dioceses generally coincided with those of the Episcopal Districts previously created by Dionisije. The Holy Assembly left the fixing of exact boundaries and other organizational and administrative matters to be determined by the officials of the American/Canadian Diocese. (A. 167-68; PX 4, R. 2931-33, A. 908-910.)

B. Dionisije's Defiance and Rebellion

Dionisije's immediate and persistent reaction was to refuse to accept the decisions and actions of the Holy Assembly, to refuse to participate in the proceedings relating to the charges against him, and to call publicly for rebellion against and secession from the Mother Church.

On May 25, 1963, Dionisije prepared and mailed an acrimonious circular to all American/Canadian Diocesan bodies, stating that he refused to recognize any of the actions of the Holy Assembly and the Holy Synod—including his suspension, the appointment of Firmilian as Administrator, and the reorganization of the Diocese into three Dioceses (A. 245-55; PX 74, R. 2755, A. 1281-88). He also issued a press release on May 27 stating that he would not recognize his suspension and that he would litigate that suspension in the civil courts of the United States (PX 84K, R. 3141-43).

In addition, he issued a circular on June 3, addressed to the Patriarch, the Holy Assembly, the Holy Synod, all clergy, congregations, Diocesan committees, and all Serbians in North America, which reaffirmed his flat refusal to recognize the decisions of the Holy Assembly and the Holy Synod concerning his suspension and his removal from the administration of the Diocese (PX 71, R. 3048, A. 1271-77).

Furthermore, although he was under suspension, Dionisije, in open defiance of the Holy Assembly and Church

law, continued to officiate as Bishop, and refused to turn the administration of the Diocese over to Firmilian, who had been designated as Administrator by the Holy Synod. (A. 317-18; PX 75, R. 3053, A. 1289-90; PX 77, R. 3053, A. 1307). In this connection, Dionisije wrote to Firmilian on May 30 stating that he would not surrender his duties and that he no longer recognized the decisions of the Holy Assembly and Holy Synod, charging them to be "communistic." (PX 120, R. 2846, A. 1440-41).

After a meeting of the Diocesan Council on June 6 at which Dionisije repeated his defiance and refused to turn over the administration of the diocese to Firmilian, Dionisije purported to discharge Firmilian (his Episcopal Deputy) and two of his Vicars General* because of their loyalty to the Mother Church (A. 618; PX 77, R. 3053, A. 1309; PX 80, R. 3008, A. 1321).

On June 13, 1963, the Holy Synod appointed a delegation of two Bishops and the Secretary of the Holy Synod to come to America to investigate the charges against Dionisije. Dionisije reacted by demanding in June 28 and July 5 letters that he be given all accusations against him in writing, so that he could sue his accusers in the civil courts. In the same letters, he refused to accord hospitality to this delegation of his fellow Bishops, refused to permit them to meet in the See of the Diocese, and announced that he would neither recognize nor attend any hearings conducted by the delegation. (A. 632-36; PX 14, R. 2932-33, A. 928; PX 79, R. 3083, A. 1313; DX 258, A. 1765.)

* Each Vicar General was the chief cleric of one of the Episcopal Districts. One of these Vicars General was Father Brkich, whom Dionisije had selected to head the delegation sent to the meeting of the Holy Assembly in 1962 (A. 240-270). Dionisije dismissed the third and last Vicar General in August of 1963 (A. 601-02; PX 113A, R. 3107, A. 1425).

Dionisije stridently reiterated his position on July 5, 1963, at a meeting between the delegation and Dionisije and certain of his followers in a local restaurant selected by Dionisije, after he turned the delegation away from the Monastery (the See of the Diocese). Dionisije stated that he did not recognize his suspension or the right of the Holy Synod to try him. When the delegation complained to him about his May 25 circular and his May 27 press release, he stated that he stood by all of his previous statements. In view of Dionisije's position, the delegation advised him that the Holy Synod would appoint a Bishop as court prosecutor, who would prepare an indictment which would be forwarded to Dionisije for answer. (A. 212-15; PX 82, R. 3060, A. 1324; DX 150, R. 6553, A. 1640; DX 152, A. 1646; DX 241, A. 1719.)*

Dionisije again repeated his defiance in a letter to the Patriarch on July 11 and in a circular letter to all parishes in the Diocese on July 15 (DX 150, R. 6553, A. 1640; PX 88, R. 3085, A. 1383).

C. The Removal of Dionisije as Bishop

On the report and recommendation of the delegation, which detailed Dionisije's open defiance and rebellion, the

* Bishops Visarion and Hrzostom had brought with them all of the complaints and accusations against Dionisije received by the Holy Synod. In view of Dionisije's flat refusal to recognize the authority of the Holy Assembly and Holy Synod and his threat to sue in the civil courts, however, they did not discuss the complaints and accusations with Dionisije. Dionisije testified that the Bishops told him that they did not need to conduct further investigation because "my refusal to answer them that's enough" (A. 215-16, 492). Two of the members of the delegation nevertheless remained in the United States and conducted a further investigation of the charges (PX 197A, A. 1535). After a public statement about the July 5 meeting, the remainder of the delegation returned to Yugoslavia to report (A. 215).

Holy Assembly removed Dionisije as Bishop at a special meeting held on July 26-27, 1963 (PX 8, R. 2931-33, A. 919-23). The minutes of the Holy Assembly meeting and the Patriarch's letter of July 29 to Dionisije advising him of the action of the Holy Assembly demonstrate: (1) that the action relating to Dionisije was based solely upon his acts of defiance and rebellion subsequent to May 10, 1963; and (2) that the Holy Assembly deposed Dionisije because he had violated his oath and under Article 104 of the Mother Church Constitution had lost certain of the qualifications required of a bishop (PX 11, R. 2933, A. 925; DX 249, A. 1735, 1736-40).

Dionisije thereafter continued his defiance of church authority by broadcasting a circular (September 20) and by calling and presiding over (in violation of church law) two illegal Sabors or Church Councils (August 6-9, November 12-14), at which Dionisije and his followers purported to amend the Diocesan Constitution so as to make it autonomous and purported to secede from the Mother Church (PX 90, R. 3090; DX 240, A. 1703; PX 59, R. 2996-97, A. 1120-22; PX 84X, R. 3191-92, A. 1365; PX 84CC, A. 1369-75).

D. Dionisije's Indictment, Trial and Defrockment

On October 18, 1963, the Holy Synod forwarded to Dionisije a formal written indictment against him, seeking Dionisije's response (PX 16, R. 2932-33, A. 930-81; PX 84R, p. 99, R. 3149). On November 18, 1963, Dionisije wrote to the Holy Synod, demanding that verified copies of all reports and complaints referred to in the indictment be sent to him, and that he be allowed a six-month extension from December 1 within which to respond to the indictment (PX 19, R. 2933, A. 985).

The Holy Synod granted Dionisije an extension to mid-January. Dionisije's request for verified copies of all charges was denied on the ground that the charges were described in the indictment, that additional details were evidentiary in nature, and that there was no legal or canonical basis for forwarding such material to an accused Bishop. (DX 243, A. 1727; PX 20, R. 2933, A. 987-88.)

Dionisije then refused to answer the indictment. (Telegram of January 13, 1964, PX 84V, R. 3152; letter of January 25, 1964; PX 84W, R. 3153, A. 1360-64). As in his prior letters and public statements, Dionisije attacked the Patriarch, Holy Assembly and Holy Synod as schismatic, pro-Communist, atheistic, and heretical.

On February 25, the Holy Synod declared itself unable to proceed further with the case against Dionisije because of his refusal to participate, and referred the matter to the Holy Assembly (DX 254, A. 1754, 1758-59).

Because he refused to respond to or otherwise participate in the proceedings, the Holy Assembly tried Dionisije as a default matter on March 5, 1964 (DX 254, A. 1754). On that day, the indictment was amended (without further notice to the defaulted Dionisije) to include charges based upon the open and admitted acts of rebellion and secession which Dionisije had committed at the illegal November 13-14, 1973 Sabor in declaring the Diocese separated from the Mother Church and attempting to create a non-canonical hierarchy (DX 254, A. 1754, 1758-60; PX 21, R. 2933, A. 1004).

The Holy Assembly unanimously voted to defrock Dionisije. In particular, the Holy Assembly determined that Dionisije committed the following "ecclesiastical-canonical transgressions" (PX 21, R. 2933, A. 995-1004):

1. He had refused to participate before the official investigating commission appointed by the Holy Synod at the direction of the Holy Assembly;

2. He had officiated in church ceremonies and performed the duties of a Diocesan Bishop despite his suspension on May 10, 1963 and his removal on July 27, 1963;

3. He had proclaimed that the Diocese was autonomous and attempted to separate it from the hierarchy of the Mother Church;

4. He had accepted clerics who did not have canonical releases or were under suspension, permitting them to perform church ceremonies, and entrusted them with parochial duties;

5. He had ordained priests and bestowed ecclesiastical ranks of honor on persons who under the canons of the Serbian Church were without qualifications; and

6. He had committed wrongdoings of a material nature and conducted himself in a manner unbecoming to his priestly rank and position.*

E. The Continued Rebellion

Dionisije and his followers have persisted in their rebellion. However, a majority of the church congregations and communicants in the United States and Canada have remained loyal to the Mother Church. During the trial Petitioners introduced evidence that 44 out of the 72 parishes

* The first three grounds were based on public acts of Dionisije or upon his press releases or letters to the Patriarch and Holy Synod. The facts relating to these three charges are not now nor have they ever been disputed by Respondents.

in the United States and Canada had remained faithful to the Mother Church (A. 509-13).

Dionisije and his minority faction have maintained possession for 12 years, *pendente lite,* of the Diocesan assets. These include the See of the Diocesan Bishop at Libertyville, Illinois, and monasteries, cemeteries, and homes for the aged located in Libertyville, Illinois; Shadeland, Pennsylvania; and Jackson, California.* Importantly, insofar as the issues in this litigation relate incidentally to property rights, they concern solely the diocesan property held for the benefit of all Serbian Orthodox people in the United States and Canada—not the church buildings and other property of individual church congregations.

III.

THE HISTORY OF THIS LITIGATION

On May 27, 1963, before the investigating committee had been appointed or the indictment returned, Dionisije issued a press release (PX 84K, R. 3141-43) stating that he would not recognize his suspension, and that he would vigorously litigate the suspension in the civil courts of the United States. Acting upon his threat, Dionisije commenced this action in the Circuit Court of Lake County, Illinois on July 26, 1963, asking that the Bishops appointed by the Holy Assembly be enjoined from interfering with his ad-

* During this period Dionisije has barred clergymen loyal to the Mother Church from conducting graveside services at the St. Sava Cemetery (PX 109, R. 3103, A. 1424); cancelled the pension of a priest loyal to the Mother Church (A. 281-82; PX 98, R. 3095, A. 1407); and threatened the clergy and church congregations with "legal consequences" if they did not acknowledge his authority (PX 96, R. 3094, A. 1404-06).

The general statements in Respondents' briefs asserting nondiscrimination in their administration of diocesan assets do not square with or explain this undisputed evidence.

ministration of the Diocese and that he be recognized as the true Diocesan Bishop (A. 6). The three Bishops who were appointed Bishops of the three reorganized Dioceses later filed a countercomplaint which was consolidated with Dionisije's action.

In 1964, the trial court granted summary judgment in favor of Dionisije and dismissed the countercomplaint of the three Bishops. That decision was reversed by the Illinois Appellate Court, *Serbian Eastern Orthodox Diocese* v. *Ocokoljich,* 72 Ill. App. 2d 444 (2nd Dist. 1966) (A. 10). In its initial decision, the Appellate Court flatly concluded that the suspension, removal and defrockment of Dionisije were valid and binding upon the civil courts. On rehearing, the Appellate Court reaffirmed that decision, but did accede to Respondents' insistence that they be given an opportunity to attack Dionisije's removal by proving at trial that it was a result of communist-influenced fraud, collusion or arbitrariness (A. 29-32).

The Court also held both the 1963 diocesan reorganization and Respondents' attempted secession invalid (A. 23-28). The Court concluded that the Diocesan property was not merely the property of the corporations which held title to it. All of that property, regardless of title, was held in trust for the members of the Diocese in North America (A. 19). The Appellate Court remanded the case for trial on all issues.

Following a trial of more than 100 days (which involved over 100 witnesses, more than 12,000 transcript pages, and nearly 600 multipaged exhibits), the trial court entered a Memorandum Opinion and a Final Decree (A. 1767) concluding, *inter alia,* that the challenged decisions of the Holy Assembly and the Holy Synod "were in no way tainted with fraud, collusion, or arbitrariness," and that Dionisije

had been validly and properly suspended, removed and defrocked. The trial court reached the same conclusions as the Appellate Court as to the other issues.

On March 24, 1975, the Supreme Court of Illinois issued an opinion substantially overturning many of the findings and decisions of the trial court (A. 1800). The Supreme Court of Illinois proceeded to construe the internal church constitutions of the Mother Church and of the Diocese, and the Penal Code of the Mother Church, and to weigh and evaluate the testimony of various witnesses on the disputed points of internal church law. Accepting the testimony of Respondents' only witness on ecclesiastical rules, a defrocked former cleric of the Church (Stefanovic), and rejecting or ignoring the testimony of Petitioners' five expert witnesses,* the Supreme Court of Illinois adopted a construction of the Church laws and regulations at variance with that adopted by the Holy Assembly (A. 1825). In so doing, the Court ignored the provisions of the Church Constitution, the Holy Canons and other sources of Church Law which empower the Holy Assembly to interpret canonical ecclesiastical rules and expressly make final the Holy Assembly's interpretations and decision.

On the basis of its construction of the law of the Church, the Supreme Court of Illinois found that the proceedings against Dionisije were procedurally and substantively defective, and concluded that this made those proceedings "arbitrary" and invalid within this Court's *dicta* in *Gonzalez* v. *Roman Catholic Archbishop,* 280 U.S. 1, 16 (1929). The opinion of the Illinois Supreme Court in effect pur-

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* Petitioner's witnesses included three members of the Holy Assembly of Bishops (Bishops Visarion, Nikanor, Vasilije)—one of them the author of the Church Penal Code; the Secretary of the Holy Synod (Very Rev. Mladenovich); and Dr. Meyendorff, a recognized expert in the field of ecclesiastical law.

ported to set aside the 1963 removal and the 1964 defrockment of Dionisije and purported to restore him as a Bishop of the Church, member of the Holy Assembly, and Bishop of the Diocese (A. 1826-1827).

In reaching those conclusions, the Court rejected Petitioners' contention that, in view of Dionisije's refusal to participate in the proceedings, his trial was properly conducted as a default matter under the express provisions of Article 66 and Article 70 of the Penal Code. Those articles (PX 69, R. 3036, A. 1262-63, 1264-65) provide that if one charged with a violation refuses to reply to the indictment or participate in the proceedings, he is deemed to acknowledge the charges aganst him, and subsequent proceedings will be concluded without his participation.* The Illinois Court also rejected Petitioners' argument that Dionisije's open and admitted defiance of Church authority and his secession constituted independent offenses for which he was properly removed and defrocked. Finally, the Court rejected Petitioners' arguments that the evidence demonstrated compliance with all internal church regulations.

In addition, the Court affirmed the trial court's decision invalidating the action of the Holy Assembly in reorganizing the Diocese into three Dioceses as well as Respondents' attempts to secede from the Mother Church (A. 1828, 1832-1833).

The Supreme Court of Illinois recognized that the Serbian Orthodox Church is hierarchical and episcopal, and that the decisions of the highest hierarchical church authorities are generally accepted as conclusive in disputes before the

* The Court's decision appears to ignore Article 67 of the Church Penal Code (PX 69, R. 3036, A. 1263), which provides: "The initiation of the Due Process is not bound by any formalities."

civil courts, even though civil rights are affected (A. 1824). However, the Illinois Court rejected Petitioners' contentions that the review and invalidation of the Mother Church's removal and defrockment of a Bishop and of the diocesan reorganization which had been sought by Respondents and granted by the Supreme Court of Illinois, constituted an interference with the First and Fourteenth Amendment guarantees of religious freedom and was at odds with the prior decisions of this Court.

Petitions for rehearing were filed by all parties. Petitioners specifically complained that the Court's action (in construing internal church law and rejecting the construction of that church law by the Holy Assembly, as well as the review and purported invalidation of the proceedings against Dionisije and of the diocesan reorganization) constituted an improper interference in religious affairs and an infringement of the constitutional guarantees of the First and Fourteenth Amendments.

On May 29, 1975, the Supreme Court of Illinois denied the petitions for rehearing. However, without granting rehearing or permitting argument on the issue, the Court modified its original opinion by adding two sentences which hold that the suspension of Dionisije by the Holy Synod is no longer effective.* The Court's opinion purports to have the effect of reinstating Dionisije as Diocesan Bishop (and apparently as a member of the Holy Assembly of Bishops), although the highest church authorities (the Holy Assembly of Bishops) consider him to have been suspended, removed and defrocked.

This appeal followed.

* The language added upon rehearing appears in italics at A. 1827.

SUMMARY OF ARGUMENT

The decision of the Illinois Supreme Court violates the First and Fourteenth Amendment guarantees of religious freedom as interpreted by the decisions of this Court. In order to minimize interference by civil courts in the internal affairs of hierarchical churches, this Court has held that the United States Constitution generally requires courts to accept as conclusive the decisions of the highest judicatories of those churches in internal church disputes. This rule of deferring to the internal church tribunals set up by the parties themselves is applied even in cases in which the decision on the internal church questions incidentally affects the civil or property rights of the parties.*

There is no dispute concerning the status and legitimacy of the Holy Assembly and the Holy Synod as the highest judicatories of the Serbian Orthodox Church.

It is also undisputed that the Holy Assembly and the Holy Synod possess exclusive authority to appoint, suspend, remove and defrock Diocesan Bishops.

Apparently, Respondents do challenge (or at least quibble about) the hierarchical nature of the Mother Church. But, every court that has considered the matter over the past dozen years has found the Church to be hierarchical—often using language indicating that the issue is not open to serious dispute.

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* In appropriate cases, courts may use the alternative "formal title" approach of determining ownership of religious property by studying non-religious documents, such as deeds, reverter clauses, and general state corporation laws. However, this approach is not applicable to the situation presented by the case at bar.

Furthermore, the evidence amply demonstrates that the Serbian Orthodox Church falls within this Court's definition of hierarchical churches as:

> "(1) Those organized as a body with other churches (2) having similar faith and doctrine (3) with a common ruling convocation or ecclesiastical head." *Kedroff* v. *Saint Nicholas Cathedral of the Russian Orthodox Church,* 344 U.S. 94, 110 (1952).

The Illinois Supreme Court did not follow the rule of recognizing the decisions of the church tribunals. Instead, the Illinois Court substituted its interpretation of internal church regulations for that of the Holy Assembly and set aside the action of the Mother Church in suspending, removing and defrocking a Bishop and in reorganizing one of its dioceses.

The Illinois Court based its decision upon *dicta* which appears in four of this Court's opinions, beginning with *Gonzalez* v. *Roman Catholic Archbishop,* 280 U.S. 1, 16 (1929), to the effect that hierarchical decisions need not be followed if they result from "fraud, collusion or arbitrariness." This "exception" has never formed the basis of any of this Court's decisions. Indeed, the source, purpose and content of the supposed exception have never been explored by this Court. However, this Court has made it clear that any judicial review must be "marginal" and of "the narrowest kind" and should not "inject the civil courts into substantive ecclesiastical matters." *Presbyterian Church v. Mary Elizabeth Blue Hull Memorial Presbyterian Church,* 393 U.S. 440, 450-451 (1969).

The "fraud" and "collusion" portions of the exception are not involved in this case. The Illinois Supreme Court has misapplied the "arbitrariness" language of the *Gonzales* exception. The Illinois Court viewed this Court's use

of the word "arbitrariness" as a sanction for civil courts to conduct a detailed review of internal church procedures; to substitute their own interpretations of internal church regulations for the interpretations adopted by the highest judicatories of the Church; and to conduct an administrative-type review of Church decisions.

The "arbitrariness" exception as construed by the Illinois Supreme Court is unsound and would destroy the basic constitutional principle that protects religious freedom by requiring judicial non-interference in internal church affairs. The integrity of that principle can be preserved only if civil courts are required to recognize decisions of church tribunals unless the objecting party proves fraud or collusion.

In each instance the action of the Illinois Supreme Court in overturning decisions of the Holy Assembly or Holy Synod was improper.

In the proceedings relating to Dionisije, the Illinois Supreme Court had no right to substitute its interpretation of church procedures for that adopted by the Holy Assembly. In any event, the undisputed facts concerning:

(1) Dionisije's refusal to participate in the proceedings of the Church tribunals;

(2) his action in taking the dispute to the civil courts before the procedural problems he now raises had even occurred; and

(3) his open and admitted acts of defiance, rebellion and secession against the Mother Church

amply satisfy any proper review by the civil courts of his removal and defrockment. Similarly, the Illinois Supreme Court acted improperly in substituting its judgment for that of the Holy Synod in determining that Dionisije's suspension and Firmilian's tenure as administrator had expired.

By invalidating the Holy Assembly's reorganization of the American-Canadian Diocese, the Illinois Court ignored the Holy Assembly's role as supreme interpreter of the internal church constitutional provisions relating to the relationship between the Mother Church and its Dioceses. Instead, the Illinois Court improperly substituted its own interpretation of the internal church regulations.

Respondents' contention that this case is primarily a property dispute or that it involves some attempted seizure of American property by foreigners is false and demagogic. Whatever the number of dioceses, the diocesan property will continue to be held in trust for the Serbian Orthodox Church members in North America, just as the Illinois Appellate Court recognized on the first appeal.

ARGUMENT

I.

THE DECISION OF THE SUPREME COURT OF ILLINOIS, IN REFUSING TO FOLLOW THE DECISIONS OF THE HOLY ASSEMBLY AND THE HOLY SYNOD ON MATTERS OF CLERICAL DISCIPLINE AND CHURCH ORGANIZATION, OFFENDS THE FIRST AND FOURTEENTH AMENDMENTS.

A. Under This Court's Prior Decisions, The Supreme Court of Illinois Was Required To Accept As Conclusive The Decisions Of The Holy Assembly And The Holy Synod As The Highest Judicatory Authorities Of A Hierarchical Church.

The constitutional principle that civil courts generally must accept as conclusive the decisions of the highest ecclesiastical judicatories of a hierarchical church in religious disputes (even though those disputes also involve civil and property rights) is established by the decisions of this Court in *Watson* v. *Jones,* 80 U.S. (13 Wall.) 679, 727-729 (1871), and in *Gonzalez* v. *Roman Catholic Archbishop,* 280 U.S. 1, 16 (1929), both decided without reference to any express constitutional provisions, and in *Kedroff* v. *Saint Nicholas Cathedral of the Russian Orthodox Church,* 344 U.S. 94, 113-115, 120-121 (1952) (later opinion, *sub nom. Kreshik* v. *Saint Nicholas Cathedral of the Russian Orthodox Church,* 363 U.S. 190 (1960), and *Presbyterian Church* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church,* 393 U.S. 440, 445-449 (1969), each of which was expressly based upon the guarantees of religious freedom set forth in the First Amendment and made applicable to the States by the Fourteenth Amendment.*

* The alternative "formal title" approach is not applicable to this case. *Cf. Maryland and Virginia Eldership of the Churches of God* v. *Churches of God at Sharpsburg,* 396 U.S. 367, 370 (1970). *See* pp. 55-59, *infra.*

In each of these cases, as in the case at bar, an individual or a schismatic religious group sought to have the civil courts determine that the church hierarchy had violated internal church laws relating to discipline, organization, or doctrine. In each case the church was hierarchical in organization and the church judicatory concededly legitimate. In each of these cases, as in the case at bar, the complainants asserted that the civil courts had jurisdiction because the church hierarchy had exceeded its powers or violated the rights of the plaintiffs under internal church rules. Yet in each of these decisions, this Court refused to enter into the thicket of ecclesiastical determinations, on the grounds that such judicial intrusion is wholly inconsistent with religious freedom and the fundamental separation between church and state.

The classic statement of the governing principle is set forth in *Watson* v. *Jones,* 80 U.S. at 727, 729:

> "In this class of cases [hierarchical churches] we think the rule of action which should govern the civil courts . . . is, that, whenever the questions of discipline, or of faith, or ecclesiastical rule, custom, or law have been decided by the highest of these church judicatories to which the matter has been carried, the legal tribunals must accept such decisions as final, and as binding upon them, in their application to the case before them . . ."
>
> . . .
>
> "It is of the essence of these religious unions, and of their right to establish tribunals for the decisions of questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to such appeals as the organism itself provides for."

* The meaning of the *Watson* rule in a case such as the one at bar is well stated in Note, "Judicial Intervention in Disputes Over the Use of Church Property", 75 Harv. L.Rev. 1142, 1175 (1962):

(footnote continued on following page)

Besides *Watson* itself, the case most closely analogous to the present controversy is *Kedroff* v. *Saint Nicholas Cathedral of the Russian Orthodox Church*, 344 U.S. 94 (1952). There, the bulk of the American communicants of the Russian Orthodox Church had rejected the authority and decisions of the Patriarch and Mother Church in Russia, on the grounds (which had substantial evidentiary support) that those decisions were improper under church law and tradition, and that the Mother Church was dominated by the Communist government of Russia.* This Court struck down a New York State statute recognizing the American dissenters as the true Russian Orthodox Church.

Based upon the principle of civil court recognition of hierarchical decisions, this Court then recognized the Mother Church's appointee as the legitimate Archbishop of the Archdiocese of North America and the Aleutian Islands. As such, the Patriarch's appointee was entitled to possession of the Catheral (the See of the Archdiocese) which was at issue in the litigation. Analyzing the constitutional principles applicable to the selection and removal of clergy by hierarchical churches, this Court stated (344 U.S. at 116):

> "Freedom to select the clergy, where no improper methods of choice are proven, we think, must now be said to have federal constitutional protection as a part

"The third rule of *Watson* v. *Jones*, reinforced by dicta in *Bouldin* v. *Alexander*, [82 U.S. (15 Wall) 131 (1872)], puts forth a concept of very limited judicial review of the decisions of ecclesiastical adjudicatories. The court is to do no more than examine the credentials of the judicatory to see whether in fact it represents the ultimate authority within the church; if so its decision binds the court."

* In contrast, Respondents in the case at bar represent a minority faction and their earlier charges of Communist control of the Mother Church were never supported by evidence and have now been abandoned.

> of the free exercise of religion against state interference."*

This principle governs, even though in the case at bar, as in *Kedroff*, the office of Diocesan Bishop incidentally controls the right to possession of the St. Sava Monastery (the Diocesan See) and other diocesan property. *See* 344 U.S. at 110, 121, pp. 77-80 *infra*.

The fact that *Kedroff* involved the invalidation of a state statute rather than a judicial intrusion into internal church matters is not a significant distinction. After *Kedroff* was remanded, the New York State Courts determined after a trial (and again on the basis of substantial evidence) that the Russian Orthodox Church and its Patriarch were dominated by the Russian government and therefore decided that the Patriarch's appointee could not occupy the Cathedral. Summarily reversing the New York ruling in a decision particularly applicable to the interference by the Supreme Court of Illinois in the case at bar, this Court held that civil interference in internal religious matters is no more permissible if done by a court than by a legislature. *Kreshik* v. *Saint Nicholas Cathedral of the Russian Orthodox Church*, 363 U.S. 190 (1960).

B. The Decisions Of The Lower Courts And The Evidence In The Record Clearly Establish That The Serbian Orthodox Church Is A Hierarchical Church.

The only factual prerequisite to the application of the rule of the *Watson* and *Kedroff* cases to the case at bar which is disputed by Respondents is the hierarchical nature of the Serbian Orthodox Church. It is undisputed that the Holy Assembly of Bishops and the Holy Synod are legiti-

* The footnote to the quotation refers to *Gonzalez* v. *Roman Catholic Archbishop*, 280 U.S. 1, 16 (1929). *See* pp. 42-45, *infra*.

mate and that they constitute the highest ranking organs in the Church. Furthermore, it is undisputed that the Holy Assembly and the Holy Synod have exclusive jurisdiction over the consecration, appointment, suspension, removal and defrockment of Bishops.

While Respondents apparently dispute (or at least quibble over) the hierarchical nature of the Serbian Orthodox Church (Resp. Cert. Br. 12-17), their contention is clearly unsound. The hierarchical nature of the Serbian Orthodox Church is established by the evidence in the record and the decisions of all of the lower courts which have considered the matter.

The Illinois Supreme Court, after reading Respondents' briefs and while deciding most issues in Respondents' favor, stated (A. 1824; 328 N.E. 2d at 280):

> "Plaintiffs argue and defendant Bishop [Dionisije] Milivojevich does not dispute that the Serbian Orthodox Church is a hierarchical and episcopal church."•

The trial court found that the evidence "clearly establishes the hierarchical nature of the Serbian Orthodox Church." (A. 1771, 1781)

The Illinois Appellate Court in its earlier opinion in this case noted this Court's definition of hierarchical churches and concluded:

> "We do not believe it can seriously be contended that the American Diocese is not a part of such a hierarchical structure." *Serbian Eastern Orthodox Diocese* v. *Ocokoljich*, 72 Ill. App. 2d 444, 456, 219 N.E. 2d 343 (1966) (A. 21).

• Indeed, counsel for Respondents admitted in the trial court that there is no dispute but that the American-Canadian Diocese "recognized it is part of the hierarchical structure of the Serbian Orthodox Church." (A. 385)

The same finding of the hierarchical nature of the Serbian Orthodox Church has been made repeatedly by courts in jurisdictions other than in Illinois which have considered some aspect of the Dionisije dispute. *See, e.g., Draskovich* v. *Pasalich,* 280 N.E. 2d 69, 76 (Ind. App. 1972), *reh. den.,* 285 N.E. 2d 830 (1972), *cert. denied,* 414 U.S. 976 (1973); *Serbian Eastern Orthodox Congregation* v. *Serbian Eastern Orthodox Congregation,* 106 N.J. Super. 22, 254 A. 2d 119, 121 (1969), *cert. denied,* 54 N.J. 516, 257 A.2d 113 (1969), *cert. denied,* 397 U.S. 961 (1970), *reh. den.,* 397 U.S. 1058 (1970); *Mirkovich* v. *Bozanich* (No. 109/1964, Supreme Court of Ontario, Canada, 4/20/64); *Dragelevich* v. *Rajsich,* 24 Ohio App. 2d 59, 263 N.E. 2d 778, 781 (1970).

Furthermore, the evidence in the record demonstrates the hierarchical nature of the Church. This Court in *Kedroff* v. *Saint Nicholas Cathedral of the Russian Orthodox Church,* 344 U.S. 94, 110 (1952) has defined hierarchical churches as:

> (1) "[T]hose organized as a body with other churches
> (2) having similar faith and doctrine
> (3) with a common ruling convocation or ecclesiastical head."

That definition is satisfied in the case at bar. Especially convincing is Dionisije's recognition of hierarchical authority throughout the years before his suspension on May 10, 1963. Dionisije specifically recognized the superior authority of the Holy Assembly in the oath he took upon his elevation to the office of Bishop (PX 37, R. 2954, A. 1083, 1088), in the resolutions he supported at the meeting of the Diocesan Executive Board on April 17, 1963 (PX 85, R. 3063, A. 1375), and at the annual meeting of the Clergy Association of the Diocese on May 9, 1963 (PX 86, R. 2727, A. 1378). Dionisije's recognition of that authority was also repeatedly expressed in his submissions to the Holy Synod

for final approval of judgments issued by the Diocesan Ecclesiastical Court (*e.g.* DX 99, R. 6239, A. 1626-29) and by his submission of bylaws and proposed constitutional amendments to the Mother Church. These facts are set forth in greater detail at pages 12-15, *supra.*

Furthermore, the hierarchical nature of the Church is apparent from the text of the constitutional documents and from the evidence in the record relating to the history of the Church, the American/Canadian Diocese, and the relationship between them. The Serbian Orthodox Church is episcopal, i.e., it is governed by its clerics. These clerics are organized in a hierarchical structure ranging from parish priests to the Holy Assembly of Bishops, a body consisting of all Diocesan Bishops (PX 68, R. 3031, A. 1140). The chief executive organ is the Holy Synod consisting of the Patriarch as President and four Diocesan Bishops chosen from among the members of the Holy Assembly (PX 68, A. 1156). The constitutional documents are replete with provisions concerning the hierarchical authority of the Holy Assembly and Holy Synod over the entire Church (PX 68, A. 1156, 1158-64, 1170-71, 1173, 1177, 1180-82).

The principal territorial divisions of the Church are its dioceses. (PX 68, A. 1141) Each diocese is headed by a Diocesan Bishop chosen by the Holy Assembly. (PX 68, A. 1160, 1176.) Each Bishop of the American/Canadian Diocese has been elected and appointed by the Mother Church without prior consultation with or approval by the members of the American/Canadian Diocese. Indeed, prior to 1963 each Bishop appointed by the Holy Assembly was a Yugoslav cleric. *See* pp. 8-9, *supra.*

Furthermore, the broad powers of the Bishop of the American/Canadian Diocese, who is concededly appointed only by the Holy Assembly, demonstrate the hierarchical

nature of the Church organization even within the Diocese itself. The Bishop has sole power (1) to ordain priests, (2) to consecrate new churches, and (3) to appoint the members of the Ecclesiastical Court. He can veto any decisions of the Ecclesiastical Court, the Council, and other Diocesan officials, and require reconsideration. In the event of continued disagreement between the Bishop and the other Diocesan authorities, the issue is referred to the Holy Synod of the Mother Church for resolution. The Bishop occupies the See of the Diocese and has sole authority to convene Diocesan Sabors (Assemblies). He appoints temporary priests and approves permanent priests for all churches. He resolves disputes between priests and congregations. (PX 68, A. 1178-81, 1185; PX 30, R. 1019, A. 1024, 1026, 1028, 1037, 1058, 1063.) All monastery property is also under the direct control of the Bishop, as provided by Article 156 of the Diocesan Constitution (PX 30, A. 1069).

Finally, it is significant that the officials of the American/Canadian Diocese organized the 1935 Illinois not-for-profit corporation (which respondents and the Illinois Supreme Court erroneously claim to be synonymous with the Diocese itself—though the Diocese came into existence in 1921) under a part of the Illinois Religious Corporations Act which provides for the incorporation of religious bodies under hierarchical as opposed to congregational churches. *See* Ill. Rev. Stats., ch. 32, §§ 46(a)-46(h) (currently Ill. Rev. Stat., ch. 32, §§ 176-186) (PX 92, R. 3091, A. 1399). *See also* Ill. Rev. Stats., ch. 32, §§ 187-188.

C. The So-Called Gonzalez "Fraud, Collusion Or Arbitrariness" Exception Does Not Permit Civil Courts To Engage In Detailed Procedural And Substantive Review Of Decisions Of Church Tribunals.

Despite the fact that the Illinois Supreme Court conceded the Serbian Orthodox Church to be a hierarchical Church, that Court did not accord the decisions of the Holy Assembly and the Holy Synod the recognition that this Court accorded to hierarchical decisions in the *Watson* and *Kedroff* cases, *supra*. Instead, the Illinois Supreme Court:

1. Substituted its own interpretation of internal church regulations for that of the Holy Assembly;
2. Invalidated the removal and defrockment of Dionisije and purported to reinstate him as a Diocesan Bishop and as a Bishop of the Church and member of the Holy Assembly;
3. Suggested that the suspension of Dionisije and the tenure of Firmilian as Administrator of the American/Canadian Diocese had expired, even though the Mother Church treats that tenure as continuing (in deference to the pendency of this civil case); and
4. Invalidated the action of the Holy Assembly in reorganizing the American/Canadian Diocese into three dioceses.

The Illinois Supreme Court purported to review and reverse the decisions of the Holy Assembly and Holy Synod under the so-called *Gonzalez* "fraud, collusion or arbitrariness" exception to the rule requiring recognition by civil courts of decisions by hierarchical tribunals. That action is unsound and its general acceptance by civil courts would undermine this Court's prior decisions.

The "fraud, collusion or arbitrariness" exception has been mentioned in *dicta* in several of this Court's decisions. However, this Court has never defined the "narrow" scope of review of church decisions permitted by the exception. Nor has this Court had occasion to apply the stated exception to the facts of any particular case.

There was no suggestion of the "exception" in this Court's decision in *Watson* v. *Jones*, 80 U.S. (13 Wall.) 679 (1871). It first appeared as dicta in *Gonzalez* v. *Roman Catholic Archbishop*, 280 U.S. 1, 16 (1929), as an unexplained exception to the general rule of recognition of decisions by church tribunals. The precise language was (280 U.S. at 16-17):

> "In the absence of fraud, collusion, or arbitrariness, the decisions of the proper church tribunals on matters purely ecclesiastical, although affecting civil rights, are accepted in litigation before the secular courts as conclusive, because the parties in interest made them so by contract or otherwise. Under like circumstances, effect is given in the courts to the determinations of the judicatory bodies established by clubs and civil associations."•

However, the opinion in *Gonzalez* made explicit that the stated exception was not in issue in that case (280 U.S. at 18):

> "There is not even a suggestion that he [the Archbishop] exercised his authority arbitrarily."

Since *Gonzalez*, the exception has been referred to in *dicta* in three of the Court's decisions but has never been applied. In the first of these decisions, *Kedroff* v. *Saint Nicholas Cathedral of Russian Orthodox Church*, 344 U.S.

• The Court cited *Watson* v. *Jones*, *supra*, and several other court decisions involving religious disputes (280 U.S. at 16). In each of the cited cases the litigation was ultimately decided in favor of the church authorities. The Court also cited several cases involving non-religious oriented clubs and civil associations in which the dispute was resolved in favor of the association (280 U.S. at 17).

94, 116 n.23 (1952), the exception was quoted in a footnote. Similarly, in *Maryland and Virginia Eldership of the Churches of God* v. *Churches of God at Sharpsburg,* 396 U.S. 367, 369 n.3 (1970), the exception was briefly referred to in a footnote to the concurring opinion.

Only in one case, *Presbyterian Church* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church,* 393 U.S. 440, 447, 450-51 (1969), has this Court made any exposition concerning the "fraud, collusion, or arbitrariness" exception (393 U.S. at 450-451):

> "The departure-from-doctrine approach is not susceptible of the marginal judicial involvement contemplated in *Gonzalez*. Gonzalez' rights under a will turned on a church decision, the Archbishop's, as to church law, the qualifications for the chaplaincy. It was the archbishopric, not the civil courts, which had the task of analyzing and interpreting church law in order to determine the validity of Gonzalez' claim to a chaplaincy. Thus, the civil courts could adjudicate the rights under the will without interpreting or weighing church doctrine but simply by engaging in the narrowest kind of review of a specific church decision—i.e., whether that decision resulted from fraud, collusion, or arbitrariness. Such review does not inject the civil courts into substantive ecclesiastical matters."•

Thus, the *Gonzalez* type of review must be of "the narrowest kind" and not "inject the civil courts into substantive ecclesiastical matters." This exception contemplates only strictly limited and "marginal judicial involvement."

• However, even in making these limited explanatory statements, the Court defined them as *dicta,* stating in a footnote (393 U.S. at 450 n.7):

> "We have no occasion in this case to define or discuss the precise limits of review for 'fraud, collusion, or arbitrariness' within the meaning of *Gonzalez.*"

This Court has never applied or even discussed the bases, content or limits of the "fraud, collusion, or arbitrariness" exception. Certainly this Court has never sanctioned the expansive interpretation of the *Gonzalez* exception asserted by the Supreme Court of Illinois as the basis upon which to overturn the Holy Assembly's decisions in the case at bar.

D. The Illinois Supreme Court's Resort To "Arbitrariness" To Sanction Its Detailed Administrative Review Of Decisions Of Church Tribunals Offends The Constitution And Should Be Disapproved By This Court.

The "fraud" and "collusion" portions of the *Gonzalez* exception are not involved in this case. Neither fraud nor collusion has been proved by Respondents or found to exist by any Court. Indeed, the only remotely similar allegation —Dionisije's persistent assertion prior to trial that the Church proceedings against him were instigated and controlled by the Communist government of Yugoslavia—was never supported by proof, was rejected by the trial court (A. 1776, 1784, 1789), was not advanced by Respondents in the Supreme Court of Illinois, and has been abandoned by them.

Since neither fraud nor collusion is involved in this case, there is no need to explore the role those concepts might play in collateral attacks on decisions of church tribunals in the civil courts. It is enough to say that "fraud" places some limitation upon the requirement that civil courts recognize ecclesiastical decisions in those unusual cases in which the tribunal is proved to have acted in bad faith. The details may best be left for development in some future cases involving fraud.

In any event, the concepts of "fraud" and "collusion" are fairly precise and are well calculated to limit review of

ecclesiastical decisions by civil courts to the "marginal" or "narrowest kind" of review mandated by this Court in *Presbyterian Church* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440, 450-451 (1969) discussed *supra*. Consequently, these concepts do not involve substantial danger of infringement on constitutional guarantees.

The problem arises, in this case and potentially in many others, from the Illinois Court's expansive interpretation of "arbitrariness." As the Illinois decision shows, it is possible for a court to misinterpret "arbitrariness" in a manner which extends the judicial role in church cases far beyond the "marginal" and "narrowest kind" of review contemplated by this Court.

The Supreme Court of Illinois seized upon the use of the word "arbitrariness" in this Court's opinions as a sanction for detailed procedural and substantive review of the proceedings and decisions of church tribunals. The Illinois Court undertook to interpret disputed questions of internal Church law, rejected the interpretations of the Church's highest judicatories, and invalidated the Church's decisions as "arbitrary" because they did not conform to the Illinois Court's interpretation of the internal church regulations.

The kind of reviewing authority assumed by the Supreme Court of Illinois over church tribunals makes dangerous inroads upon the Constitutional guarantees of religious freedom and the rights of churches to regulate their own internal affairs.

The Supreme Court of Illinois appears to equate the standard of "arbitrariness" with a kind of review based on the "manifest weight of the evidence." Indeed, the Illinois Court expressly concluded that the trial court's finding that Dionisije's removal and defrockment were not the

result of arbitrariness was "contrary to the manifest weight of the evidence." (A. 1827.)

The Illinois Court treated this case as though it were reviewing the decision of an administrative agency. Indeed, the review was more strict than that generally accorded decisions of administrative agencies, since the Illinois Court did not give any weight to the expertise of the Church tribunals in matters relating to internal Church regulations. In any event, considering the strong prohibition expressed in the constitution against governmental interference in the exercise of religion, it is surely inappropriate to subject a decision of the Holy Assembly of Bishops of the Serbian Orthodox Church to the same type of review applied to the decision of a civil service commission or a zoning board.

Furthermore, the approach adopted by the Supreme Court of Illinois necessarily involved the Court in a detailed analysis and interpretation of the internal regulations and procedures of the Serbian Orthodox Church. The end result of this process was that the Court rejected the interpretation of internal church regulations made by the highest body of the Church, substituted its own interpretations, and thereby attempted to compel the Mother Church to reinstate a Bishop which it had suspended, removed, and defrocked.

The Illinois Court took this action in the face of provisions of the Mother Church Constitution giving the Holy Assembly final authority concerning the promulgation and interpretation of the constitution, the penal code and all other matters of church discipline and internal organization. Articles 57, 64 and pertinent parts of 69 of the Mother Church Constitution provide (PX 68, R. 3031, A. 1156, 1158, 1158-61):

> *Article 57.* The Holy Assembly of Bishops, as the highest hierarchical body, is legislative authority in

the matters of faith, officiation, church order (discipline) and internal organization of the Church, as well as the highest church juridical authority within its jurisdiction (Article 69 sec. 28).

Article 64. All the decisions of the Holy Assembly of Bishops of canonical and church nature, in regard to faith, officiation, church order and internal organization of the church, are valid and final.

Article 69. The Holy Assembly of Bishops, whose purpose is noted in Article 57 of this Constitution: . . .

9) interprets canonical-ecclesiastical rules, those which are general and obligatory, and particular ones, and publishes their collections; . . .

12) prescribes the ecclesiastical-judicial procedure for all Ecclesiastical Courts; . . .

26) settles disputes of jurisdiction between hierarchical and church-self governing organs;

27) ADJUDGES:

A) In first and in final instances:

a) disagreement between bishops and the Holy Synod, and between the bishops and the Patriarch;

b) canonical offenses of the Patriarch;

B) In the second and final instance:

All matters which the Holy Synod of Bishops judged in the first instance;.

The Illinois Court also acted in the face of the Holy Assembly's interpretations of canon law. As Father Meyendorff testified, the canons form a code which does "not pretend to be absolutely consistent" (A. 361-62), which must be interpreted by the Holy Assembly in a manner faithful to religious spirit (A. 362), and which forms a body of regulation akin to the Anglo-Saxon common law (A. 386). The proper interpretation of canon law ultimately rests upon the consensus of the whole body of autocephalous Orthodox churches, including the Mother Church (A. 362). Here, most importantly, there was consensus on the pro-

priety of the Holy Assembly's interpretation of canon law.* Certainly, even if it were appropriate under the Constitution, civil courts could not duplicate this consensus or develop the unique religious spirit appropriate to interpret canon law.

Under this Court's decisions and the internal regulations of the Serbian Orthodox Church, the disputed questions of procedure and constitutional interpretation which were the basis for the Illinois Supreme Court's decision are to be resolved by the Holy Assembly and Holy Synod, not by the civil courts.

This was not a case involving conceded or undisputed violations of church regulations by the hierarchical authorities. Rather, each of Respondents' complaints was based upon their disputing of the Holy Assembly's construction of church law. The Illinois Supreme Court, in adopting Respondents' positions, accepted the testimony of Respondents' single witness and rejected the testimony of Petitioners' five expert witnesses.

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* Indeed, in this case, Dionisije himself invoked Canons 9 and 17 of the 40th Ecumenical Council providing that decisions of the Holy Assembly may be subject to review by the bishops of another autocephalous church. Under these provisions, Dionisije appealed the judgment of the Holy Assembly to the Patriarchs of Moscow and Constantinople, both of whom rejected his appeal (A. 363; PX 67G, R. 3030, A. 1125; PX 67H, R. 3138, A. 1134). Thus, in this case, the consensus of the body of autocephalous Orthodox Churches was that Dionisije was properly defrocked. As Father Meyendorff testified, "the very fact that this defrockment has been recognized universally by all Orthodox Churches" is a "very practically, decisive argument" concerning the defrockment (A. 364).

Justice Frankfurter in a concurring opinion in *Kedroff* v. *Saint Nicholas Cathedral of the Russian Orthodox Church*, 344 U.S. 94, 125 (1952) also recognized that the State is not free to substitute its judgment for such a consensus of Orthodox Churches concerning the validity of a particular act of one church.

It is impossible to square the detailed parsing and weighing of internal church regulations found in the Illinois Court's opinion with the "marginal" and "narrowest kind" of review prescribed in this Court's decisions. Rather, the Illinois Court "injected the civil courts into substantive ecclesiastical matters"—an encroachment by secular authorities on religious liberty which is forbidden by this Court.

Respondents apparently believe that this Court's decisions requiring recognition by civil courts of decisions of church tribunals apply only to a church in which the hierarchy possesses an absolute, unfettered dictatorship and in which internal church regulations place no limitations upon the hierarchy's actions and recognize no rights of individual churches or members. They therefore argue that constitutional provisions granting a certain degree of administrative autonomy to the American-Canadian Diocese, and those prescribing procedures for clerical discipline somehow establish that the Serbian Orthodox Church is not really "hierarchical" and that this Court's decisions in the *Watson and Kedroff* cases are inapplicable (see Resp. Cert. Brief at 8-11, 12-19).

This argument misapprehends both the nature of the internal church relationships in those cases and the basis and rationale for the rule applied in this Court's decisions.

An examination of the facts stated in the decisions of this Court and of lower courts in the *Watson, Gonzalez* and *Kedroff* cases demonstrates that none involved a church in which the hierarchy possessed absolute, unfettered power over individual churches and church members.• The opin-

• The *Watson* decision involved the Presbyterian Church; the *Gonzalez* case, the Roman Catholic Church; and the *Kedroff* and *Kreshik* decisions, the Russian Orthodox Church.

ions show that in each of the churches, the powers of the hierarchy were limited by constitutions, canon law, church tradition, etc.• Each of these churches possesses, as does the Serbian Orthodox Church, a definite organization with officials and groups or entities at the church, regional and hierarchical levels.

In each case, the church officials and groups possess specific powers and duties and are subject to specific limitations. Indeed, in each case the unsuccessful schismatic parties sought to have this Court declare that the hierarchy had exceeded its powers under internal church regulations. In each case this Court properly rejected this suggestion and recognized the decision of the internal church tribunal.

Respondents have also misconceived the bases for this Court's decisions. Those decisions are not based upon an assumption that a church hierarchy has unrestricted power; that church tribunals will never err; or that church decisions will always be "correct" under internal church law.

Rather, this Court's decisions are based upon the sound conclusion that when people choose to join together in a hierarchical church and create church tribunals for the resolution of internal church disputes, it is more consonant with the constitutional guarantee of religious freedom that their choice be respected and that the decisions of those church tribunals be recognized than that unsuccessful par-

• As this Court stated in *Watson* v. *Jones*, 80 U.S. (13 Wall.) 679, 729: "Each of these large and influential bodies (to mention no others, let reference be had to the Protestant Episcopal, the Methodist Episcopal, and the Presbyterian churches), has a body of constitutional and ecclesiastical law of its own, to be found in their written organic laws, their books of discipline, in their collections of precedents, in their usage and customs, which as to each constitute a system of ecclesiastical law and religious faith that tasks the ablest minds to become familiar with."

ties be encouraged to seek review in the civil courts on the grounds that the church tribunals have misinterpreted internal church law, exceeded their powers, or followed improper procedures.

This rationale is clearly stated in the following language from this Court's opinion in *Watson* v. *Jones,* 80 U.S. (13 Wall.) 679, 728-29 (1871):

> "The right to organize voluntary religious associations . . . and to create tribunals for the decision of controverted questions of faith . . . , and for the ecclesiastical government of all the individual members, congregations, and officers within the general association, is unquestioned. All who unite themselves to such a body do so with an implied consent to this government, and are bound to submit to it. But it would be a vain consent and would lead to the total subversion of such religious bodies, if anyone aggrieved by one of their decisions could appeal to the secular courts and have them reversed. It is of the essence of these religious unions, and of their right to establish tribunals for the decision of questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to such appeals as the organism itself provides for."

The logic of this rule and the danger of the detailed civil court review sanctioned by the Illinois Supreme Court is graphically illustrated by this case. From the day of his suspension, Dionisije refused to participate in the internal church proceedings arising out of the complaints against him. Before the investigation, the removal, the indictment or the trial about which he now complains, Dionisije, on May 27, 1963, issued a press release threatening to litigate his case in the civil courts. He followed up that threat by filing suit on July 26, 1963, and refused to participate in the ecclesiastical proceedings.

This conduct has not prevented him from making numerous complaints about the procedures followed by the church tribunals. Dionisije's tactic of refusing to participate before the tribunals of his own church and taking the dispute to the civil courts has been rewarded by the Illinois Supreme Court, which has purported to reinstate him as Diocesan Bishop and as a member of the Holy Assembly. It is not difficult to foresee that this example, if approved by this Court, will be used as a precedent for numerous lawsuits by schismatic and dissident church groups and individuals.

It is, of course, easy for a dissident group to assert that the decision of a church tribunal in a particular case should not be accepted because the procedure followed was improper or because the decision exceeded the tribunal's proper scope of authority under the internal regulations of the church. These defects are sometimes even described as "jurisdictional." Respondents have made this type of argument, as have the dissident groups in most of the cases involving church disputes which have reached this Court. It was erroneously accepted by the Illinois Supreme Court in the case at bar.

But the recognition of this type of "jurisdictional" exception fatally undermines the general rule of recognition of decisions of church tribunals. The fallacy of Respondents' arguments was recognized by this Court more than a century ago in *Watson* v. *Jones, supra.* There, the Court criticized the Kentucky Court of Appeals for falling into the "jurisdictional" trap. Noting that a hypothetical decision by a church tribunal on the ownership of property by individual church members or with respect to a charge of murder against a church member would properly be ignored as outside the tribunal's jurisdiction, this Court went on to state (80 U.S. (13 Wall.) at 733-34):

> "But it is a very different thing where a subject-matter of dispute, strictly and purely ecclesiastical in its character,—a matter over which the civil courts exercise no jurisdiction—a matter which concerns theological controversy, church discipline, ecclesiastical government, or the conformity of the members of the church to the standard of morals required of them, —becomes the subject of its [the Church tribunal's] action. It may be said here, also, that no jurisdiction has been conferred on the tribunal to try the particular case before it, or that, in its judgment, it exceeds the powers conferred upon it, or that the laws of the church do not authorize the particular form of proceeding adopted; and, in a sense often used in the courts, all of those may be said to be questions of jurisdiction."

The Court pointed out the fallacy of this "jurisdictional" argument:

> "But it is easy to see that if the civil courts are to inquire into all these matters, the whole subject of the doctrinal theology, the usages and customs, the written laws, and fundamental organization of every religious denomination may, and must, be examined into with minuteness and care, for they would become, in almost every case, the *criteria* by which the validity of the ecclesiastical decree would be determined in the civil court. This principle would deprive these bodies of the right of construing their own church laws, would open the way to all the evils which we have depicted as attendant upon the doctrine of Lord Eldon, and would, in effect, transfer to the civil courts where property rights were concerned the decision of all ecclesiastical questions."

Furthermore, as a general matter, church tribunals are more likely to reach "correct" decisions on religious matters than are the civil courts. This Court recognized this principle in *Watson* v. *Jones,* 80 U.S. (13 Wall.) 679, 729 (1871), *supra,* stating:

> "Nor do we see that justice would be likely to be promoted by submitting those decisions to review in the ordinary judicial tribunals. . . . It is not to be supposed that the judges of the civil courts can be as competent in the ecclesiastical law and religious faith of all these [church] bodies as the ablest men in each are in reference to their own. It would therefore be an appeal from the more learned tribunal in the law which should decide the case, to one which is less so."

In any event, under the First and Fourteenth Amendments, the civil courts are barred from intruding themselves into these religious questions.

We respectfully submit that, in cases in which "fraud" or "collusion" is not proved, the First and Fourteenth Amendments require that civil courts recognize and accept decisions of the highest judicatories in internal church disputes. That standard requires the reversal of the decision of the Illinois Supreme Court in the case at bar.

E. The Alternative "Formal Title" Approach To Resolving Disputes Over Church Property Is Not Applicable Here.

This Court has indicated that civil courts may, in appropriate cases, use the "formal title doctrine" to resolve disputes over church property as an alternative to the *Watson* v. *Jones* approach. *Maryland and Virginia Eldership* v. *Churches of God at Sharpsburg,* 396 U.S. 367, 370 (1970).

However, that approach is not suitable to resolve the issues in the case at bar.

The concurring opinion of Mr. Justice Brennan in the *Sharpsburg* case defines the "formal title doctrine" in the following language:

> "'[N]eutral principles of law, developed for use in all property disputes,' [*Presbyterian Church* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church,* 393

> U.S. 440, 449 (1969)], provide another means for resolving litigation over religious property. Under the 'formal title' doctrine, civil courts can determine ownership by studying deeds, reverter clauses, and general state corporation laws.'" *Maryland and Virginia Eldership of the Churches of God* v. *Churches of God at Sharpsburg,* 396 U.S. 367, 370 (1970).•

As Justice Brennan noted, the "neutral principles of law" language came originally from the opinion in the *Blue Hull* case. There, this Court held that the Georgia courts had decided a dispute over church property between a general church and a local church on a basis which involved an impermissible intrusion into religious matters. On remand, the Georgia Supreme Court again decided the case in favor of the local church, solely on the basis that the deeds conveying the property placed title in the local church. *Presbyterian Church in the United States* v. *Eastern Heights Presbyterian Church*, 225 Ga. 259, 167 S.E.2d 658, 659-660 (1969), *cert. den.* 396 U.S. 1041 (1970).

The *Sharpsburg* and *Blue Hull* cases stand for the proposition that it is possible, in an appropriate case, for civil courts to decide a religious property dispute on the basis of deeds and similar title documents without an impermissible intrusion into religion. However, the opinions make clear that the civil court's opinion must be scrutinized to ensure that the decision did not in fact have the effect of an impermissible intrusion into religion or an infringement upon the church's right to govern internal church affairs.

The "formal title doctrine" cannot, consistent with the Constitution, be used to resolve the disputed issues in the case at bar. Basically, the "formal title" approach is appro-

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• Mr. Justice Brennan's concurring opinion also suggests a third possible alternative—the passage of a special statute governing church property arrangements. (396 U.S. at 370) There is no such statute in this case.

priate only for simple property disputes, similar to those presented in the *Blue Hull* and *Sharpsburg* cases. In those cases, the only issue was whether the properties of individual seceding churches belonged to the local church congregation, or to the general Church. It was undisputed in *Blue Hull* and *Sharpsburg* that the majority of each of the local congregations involved in those cases had voted to secede. The disputes in those cases could be resolved on a "formal title" basis by simple reference to the language of deeds, reverter clauses, and general state corporation laws. Neither the Respondents nor the Illinois Supreme Court have suggested that the issues in this case can be resolved by simple reference to such documents of title.

No one would seriously contend that the issues relating to the removal and defrockment of Dionisije can be resolved by the "formal title" approach. The opinion of the Illinois Supreme Court touches upon such obvious religious matters as whether Dionisije had violated his Episcopal oath; whether this alleged violation of his oath was a basis for relieving Dionisije of his post as Diocesan Bishop under Articles 104 and 111 of the Constitution of the Mother Church (A. 1815-18, 1825); the sufficiency of Dionisije's acts of (1) refusing to recognize the Mother Church's authority; (2) refusing to participate in the disciplinary proceedings; and (3) attempted secession from the Mother Church as grounds for his removal and defrockment as a Bishop (A. 1824-33).• The Illinois Supreme Court did not attempt to apply the "formal title" doctrine to the Dionisije issues, and we do not believe that Respondents seriously urge it.

• It appears that the Illinois Court gave no weight to these religious matters, although they were of vital importance to the Holy Synod and the Holy Assembly in their decisions to remove and defrock Dionisije. But a civil court cannot claim to be applying "neutral principles of law" when it invalidates the decision of a church tribunal in a disciplinary proceeding against a Bishop and ignores important religious grounds for that disciplinary action.

As we understand Respondents' argument, they contend that the "formal title" approach can be used to resolve the diocesan reorganization issue. They contend that construction of the Mother Church Constitution and the Diocesan Constitution can be analogized to the examination of deeds, reverter clauses, and state corporation statutes.

The attempted analogy is inapt. Deeds, reverter clauses, and state corporation statutes are civil laws or secular title documents. On the other hand, church constitutions are ecclesiastical documents, full of religious concepts which, along with canons, orders of church councils, tradition and other matters, govern delicate internal church relationships. The Illinois Supreme Court's detailed parsing of these religious documents on the basis that they involve only "neutral principles of law developed for use in all property disputes"• is an obvious distortion of the "formal title" doctrine and would inevitably lead the civil courts into the constitutionally forbidden area of resolving ecclesiastical issues.

If reference were made to the specific types of documents of title referred to in Justice Brennan's concurring opinion, however, those documents either support Petitioners' position directly or make the outcome depend upon the identity of the Diocesan Bishop or the identity of the trust beneficiaries. In this connection, it is, of course, significant that the officials of the American/Canadian Diocese organized the 1935 not-for-profit corporation under that part of the Illinois Religious Corporations Act providing for the incorporation of religious bodies under hierarchical as opposed to congregational churches. *See* pp. 10-11, *supra*.

• *Maryland and Virginia Eldership of the Churches of God* v. *Churches of God at Sharpsburg*, 396 U.S. 367, 370 (1970); *Presbyterian Church* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440, 449 (1969).

The title to the diocesan property is in the name of the property holding corporations. However, as the Illinois Appellate Court recognized (A. 19), that title is subject to a trust for the benefit of the church members and the Diocese. The church members are split, with the majority adhering to the Mother Church. Consequently, any decision that the beneficiaries of the trust are the Dionisije faction or that the members of that faction constitute the "Diocese" would involve the civil courts in determining the identity of the "true church"—certainly an impermissible issue for civil courts.

The principal officer of the corporations (and therefore the active trustee of the property) is the Diocesan Bishop—and his identity is in dispute, as it was in *Kedroff*.

II.

UNDER CONSTITUTIONAL PRINCIPLES, AS EXPRESSED IN THIS COURT'S OPINIONS, THE ILLINOIS SUPREME COURT IMPERMISSIBLY INTRUDED INTO INTERNAL CHURCH MATTERS AS TO EACH OF THE THREE ISSUES ON WHICH IT REFUSED TO RECOGNIZE THE DECISIONS OF THE MOTHER CHURCH.

Applying the foregoing constitutional principles to each of the three subjects on which the Illinois Supreme Court rejected the decisions of the Mother Church, it is apparent that the Illinois Court overlooked or ignored the applicable principles, applied the wrong standards, and reached impermissible results. The record also shows that, in a number of instances, the Illinois Court, while purporting merely to construe the Mother Church's internal regulations and determine whether they had been followed, actually substituted the Court's own notions of proper procedure and in effect rewrote the church's regulations. This type of judicial rewriting of church regulations is pre-

dictable if detailed civil court review of the decisions of church tribunals is sanctioned by this Court. It is another danger posed by the precedent of the Illinois Supreme Court's opinion.

A. The Constitution Required The Illinois Supreme Court To Recognize The Mother Church's Decisions In Removing And Defrocking Dionisije.

The proceedings involving Dionisije have already been discussed in some detail. The exclusive jurisdiction of the Holy Assembly and Holy Synod in disciplinary proceedings involving bishops is undisputed. The action of the Illinois Supreme Court in invalidating the proceedings of church tribunals against a bishop—an important member of the church hierarchy—is an extreme and clearly impermissible intrusion into religious affairs.

This intrusion was exacerbated by the action of the Illinois Supreme Court in substituting its own interpretation of internal church regulations for that of the Holy Assembly. The conclusion reached by the Illinois Court is particularly indefensible because it resulted from the Court's acceptance of the testimony of Respondents' one so-called "expert witness" (a defrocked former cleric) and the rejection of the testimony of five expert witnesses who testified for Petitioners. These five witnesses included three bishops of the Mother Church—one of them the author of the penal code—and a cleric of the Mother Church who had served as the Secretary of the Holy Synod for many years, each of whom came to America to testify at the trial. Petitioners' fifth expert witness was Father Meyendorff, a Ph.D, professor and recognized expert in the field of ecclesiastical law.

We do not propose to discuss in detail the procedural objections raised by Respondents with respect to the disciplinary proceedings involving Dionisije. Petitioners do not ask this Court to review the detailed evidence relating to the internal church regulations and procedures of the Serbian Eastern Orthodox Church and determine whether Petitioners and the Holy Assembly of Bishops on the one hand, or Respondents and the Supreme Court of Illinois on the other hand, were correct in their interpretation of those internal church regulations. Indeed, under this Court's decisions, that type of detailed analysis and interpretation of internal church regulations is inappropriate for any civil court—including this Court. Since we anticipate, however, that Respondents will insist on arguing these matters in detail, we have included a statement of the conflicting positions of the parties on the procedural issues as Appendix I to this brief.

There are, however, two matters relating to the Illinois Supreme Court's treatment of the proceedings against Dionisije which merit discussion in the text of this brief. The Illinois Supreme Court's refusal to give weight to these matters demonstrates the degree to which the Court imposed its own notions of proper procedure upon the parties and demonstrates the sham of the Illinois Court's contention that it was only reading and applying the Mother Church's own regulations. In addition, these undisputed matters, without more, demonstrate the propriety of Dionisije's removal and defrockment.

The most extreme example of the degree to which the Supreme Court of Illinois went in substituting its notion of proper procedure for the regulations adopted by the Church is found in the Court's treatment of Articles 66 and 70 of the Penal Code. Those articles expressly provide that if a cleric of the Mother Church charged with a violation refuses to participate in the proceedings or answer the indictment, he is deemed to have acknowledged the

charges against him, and subsequent proceedings are to be concluded without his participation (PX 69, R. 3036, A. 1262-63, 1264-65).

Despite the undisputed evidence that, from the moment of his suspension, Dionisije had refused to participate in the church proceedings, had defied and denounced the legitimate church authorities, and had taken the dispute to the civil courts, the Supreme Court of Illinois inexplicably refused to accept the use in Dionisije's case by the Holy Assembly of the default procedures prescribed in Articles 66 and 70.

Apparently, the Illinois Court concluded that Dionisije should be excused for refusing to participate in the proceedings against him because he objected to some of the procedures being followed (A. 1826). But this conclusion makes a mockery of the Illinois Court's pretense that it was only reading and applying the Mother Church's own regulations. There is no support in the testimony or exhibits for the interpretation that an accused can safely "opt out" of the church proceedings and avoid being treated as a defaulted party merely by making objections to the manner in which the proceedings are being conducted. None of the witnesses (including Respondents' alleged expert) testified to this "interpretation" of church law. Since the facts concerning Dionisije's default are uncontested, a secular court need look no further to sustain the Holy Assembly's judgment.

A second important matter is the Illinois Supreme Court's refusal to give any weight to the open and admitted ecclesiastical offenses which Dionisije committed between his suspension on May 10, 1963, and his defrockment on March 5, 1964.

During this period, Dionisije refused to accept his suspension or to turn the administration of the diocese over

to Firmilian, the Administrator appointed by the Holy Synod (*see, e.g.*, PX 120, R. 2846, A. 1440-41). He refused to participate in any hearings conducted by the investigating delegation appointed by the Holy Synod, refused to allow the delegation into the Diocesan See, and refused to recognize the authority of the delegation or of the Holy Synod (DX 152, A. 1646-48). Instead of submitting to the disciplinary authority of the Mother Church, he defied it and its highest authorities, and insisted on dragging the matter through the civil courts.

Dionisije, while under suspension, illegally purported to convene two Sabors (church councils) at which he and his followers attempted to amend the Diocesan Constitution, secede the Diocese from the Mother Church, and elect a bishop (PX 84CC, A. 1369-75). Throughout the period from May 1963 through January 1964, Dionisije repeatedly and publicly denounced the Patriarch, Holy Assembly and Holy Synod as schismatic, pro Communist, atheistic, and heretical (*see, e.g.*, PX 84W, R. 3135, A. 1360).

As the testimony of the learned bishops who were called as witnesses shows, these offenses against the Mother Church were considered to be of great importance in the Holy Assembly's removal of Dionisije as bishop on July 27, 1963 (for violation of his episcopal oath) and in the judgment of defrockment rendered on March 5, 1964 (*see, e.g.*, the testimony of Bishops Nikanor and Visarion at A. 172-173, 216-217). These matters constituted three of the six grounds stated by the Holy Assembly for the judgment of defrockment against Dionisije on March 5, 1964 (PX 21, R. 2933, A. 989).

Although these charges involved public and admitted acts of Dionisije which were important grounds for his removal and defrockment, the Illinois Supreme Court ignored them. Yet it is difficult to imagine more serious ecclesiastical offenses by a member of the highest ecclesiasti-

cal body of a hierarchical church. This situation again illustrates the fallacy of the Illinois Supreme Court's contention that it either could or did review the Dionisije proceedings on the basis of neutral principles of law or on the basis of a straightforward application of the internal rules of the Serbian Orthodox Church. These ecclesiastical offenses, which are based on public and admitted acts, suffice, without more, to sustain Dionisije's removal and defrockment.

B. The Illinois Supreme Court Exceeded Its Authority By Declaring That The Suspension Of Dionisije And The Appointment Of Firmilian As Administrator Had Expired.

Even after exercising its detailed review of internal church regulations, the Illinois Supreme Court recognized the validity of Dionisije's suspension and of the appointment of Firmilian as Administrator of the American/Canadian Diocese on May 10, 1963. However, after the filing of petitions for rehearing by all parties, the Illinois Court, without granting rehearing or permitting argument, modified its original opinion by adding two sentences. These sentences state that the suspension of Dionisije is no longer effective (A. 1827). By inference they also conclude that the appointment of Firmilian as Administrator has expired.

This decision purports to reinstate Dionisije as acting Diocesan Bishop and a Bishop of the Mother Church and member of the Holy Assembly, although the Mother Church authorities consider him to be suspended, removed and defrocked. Furthermore, the decision invalidates the continued tenure of Firmilian, the Administrator who is recognized by the Mother Church as the temporary head of the American/Canadian Diocese.

The Holy Assembly continued the suspension of Dionisije and the appointment of Firmilian as Administrator of the

American/Canadian Diocese pending final disposition of this case in deference to the American courts. What the action of the Illinois Supreme Court establishes, as a most unfortunate precedent, is that a dissident cleric may defeat his suspension and the appointment of a temporary administrator by filing and maintaining suit in a civil court and refusing, during pendency of the litigation, to recognize that suspension and the appointment of the temporary administrator.

The Illinois Supreme Court's sole basis for this far-reaching decision is that suspension is a temporary measure prior to trial and the provision of the Penal Code that "the court is obligated to make a decision within a period of one year." (A. 1827.)

The proceedings before the Church tribunals were concluded within ten months of the original suspension. Yet, the Illinois Court somehow concluded that the one-year time limit was not satisfied by the completion of church proceedings within one year. In effect, the Illinois Court gave Dionisije the benefit of the lengthy civil court proceedings he initiated. The Court cited no basis in the internal church documents or the testimony of any witness for its conclusion that the suspension does not continue throughout the civil court proceedings and any retrial required by those court proceedings. We have found none. If this decision is upheld, any suspended bishop could recover his office after a year by instituting civil court proceedings and could then retain office until the court proceedings were finally concluded.

The decision of the Illinois Supreme Court with respect to the alleged expiration of Dionisije's suspension and of the tenure of the Administrator is another example of that Court's impermissible substitution of its own notions of proper procedure for the Church regulations as interpreted by the highest judicatories of the Church.

C. The Illinois Supreme Court's Invalidation Of The Diocesan Reorganization Is Another Impermissible Intrusion Into Church Affairs. Respondents' Charges Of A "Property-Grab" Are False.

1. The issue of the validity of the diocesan reorganization is an internal church dispute in which the civil courts should defer to the decision of the Church tribunals.

In presuming to invalidate the reorganization of the American/Canadian Diocese into three dioceses, the Illinois Supreme Court impermissibly injected itself into the relationship between the Mother Church and its Dioceses. The Illinois Court also in effect designated one of two contending groups (and a minority schismatic group at that) as the "true" or "legitimate" embodiment of the American Diocese. The Court thereby excluded the majority of American Church members who are loyal to the Mother Church from any right to make use of the Diocesan facilities, such as monasteries, cemeteries and old people's homes.

The Illinois Supreme Court improperly decided a delicate religious question which should have been left to the appropriate church tribunals. Respondents' attempts to characterize the whole matter as a property dispute and their demagogic charges that the Mother Church intended to "grab" the property of the American Church (Resp. Cert. Br. at 7) are false and without foundation in the record.

The Subordination of the Diocese to the Mother Church.

In an effort to exaggerate the significance of the diocesan reorganization, Respondents mis-characterize the American/Canadian Diocese in the years before 1963 as fully autonomous with few connections with the Mother Church (Resp. Cert. Br. at 4-7, 16-17). Indeed, the "statement of the case" in Respondents' Certiorari Brief (pp. 4-7) is full

of misstatements on this subject. Respondents state that the American/Canadian Diocese existed as a unit prior to 1921 (Resp. Cert. Br. at 4-5). That is false.• They state that the Diocese is governed by its church assembly (Resp. Cert. Br. at 5) (apparently rather than being governed by the Diocesan Bishop). That is false. (PX 68, R. 3031, A. 1177, (Article 103) *see* pp. 68-69, *infra*). Respondents state that the Diocese has grown and prospered without assistance or interference from the Mother Church (Resp. Cert. Br. at 5). That is false. (*See, e.g.,* DX 113, R. 6308, A. 1094-95). They assert that Respondents represent a majority of the Serbian Orthodox congregations and "faithful" (apparently members) in the United States and Canada (Resp. Cert. Br. at 5). That is false (A. 509-13). They contend that, while the Diocesan property has been in their possession during the long pendency of this litigation, the property has been available and used by all Serbian Orthodox people regardless of whether they support or oppose Dionisije's position (Resp. Cert. Br. at 5). That is false. (*See, e.g.,* A. 1424-25.)

The Diocesan Constitution.

Since its creation by the Mother Church in 1921, the American/Canadian Diocese has always functioned as a part of the Mother Church. The Diocesan Constitution itself states in its first two articles that the Diocese is "considered ecclesiastically-judicially as an organic part of the Serbian Patriarchate" and that generally:

> "All statutes and rules which regulate the ecclesiastical-canonical authority and position of the Serbian Orthodox Church . . . are also compulsory for the . . . Diocese. . . ." (PX 30, R. 2949, A. 1021).

Article 12 of the Diocesan Constitution provides that the Diocesan Bishop (its highest authority) may not "make any

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• *See* footnote at pp. 7-8, *supra*.

changes or innovations in the established order and work of the Church" without the prior approval of the Patriarch of the Mother Church, and adds (PX 30, R. 2949, A. 1025-26):

> "Accordingly, the Diocesan Bishop shall submit to the Serbian Patriarch, for review, all regulations which may be issued by any diocesan authority, which shall if they touch upon the sphere of internal Church administration, be subject to the approval of the Holy . . . Synod, as the highest executive church authority."•

The Diocesan Bishop.

In addition to these broad powers of the Mother Church over the Diocese, one must consider the power of supervision exercised by the Mother Church through the Diocesan Bishop. It is undisputed that the Diocesan Bishop of the American/Canadian Diocese is appointed, suspended and removed solely by the Holy Assembly and the Holy Synod. Indeed, until the 1963 appointments (which are challenged by Dionisije and his followers) all of the Bish-

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• Article 23(8) of the Diocesan Constitution (PX 30, R. 2949, A. 1029) limits the authority of the Diocesan Sabor (its "main legislative and controlling body," as stated in Article 15) to amend the Diocesan Constitution by requiring that all proposed amendments be approved by the Mother Church before they may take effect. Article 53 of the Diocesan Constitution (PX 30, R. 2949, A. 1039-40) subjects decisions by the Diocesan Ecclesiastical Court to approval by the Holy Synod of the Mother Church (decisions which include, among others, the organization, dissolution, and reorganization of parishes and congregations within the Diocese: Article 55(7) (PX 30, R. 2949, A. 1040-41). The Diocesan Bishop is also limited in his authority by Article 10 of the Diocesan Constitution (PX 30, R. 2949, A. 1023-1025), particularly requiring that he execute all canonical orders of the Holy Assembly (Article 10h), submit to the Holy Assembly an annual report of his archipastoral activities (Article 10p), and prepare, accept and appoint new priests for the Diocese according to the indicated need and with prior approval of the Ecclesiastical Court (Article 10q).

ops and Administrators of the American/Canadian Diocese were Yugloslav clerics who were appointed and sent to the United States from Yugoslavia by the Holy Assembly and the Holy Synod without any consulation with Diocesan officials.

The Diocesan Bishop has very great powers within the Diocese. He alone can ordain priests, consecrate new churches and appoint the members of the Ecclesiastical Court. He can veto any decisions of the Ecclesiastical Court, the Diocesan Council, and other Diocesan officials and require reconsideration. In the event of continued disagreement between the Bishop and the other Diocesan authorities, the issue is referred to the Holy Synod of the Mother Church for resolution. The Bishop has the right to occupy the See of the Diocese and has full authority to convene Diocesan Sabors (assemblies). He appoints priests to all parishes and resolves disputes between priests and congregations. All monastery property is under the direct control of the Bishop (PX 30, R. 2949, A. 1024, 1026, 1028, 1037, 1039, 1057-59, 1069).

Indeed, while Dionisije and his followers now argue that the Mother Church has no power or role in reorganizing the Diocese, they themselves recognized that role by repeatedly petitioning the Holy Assembly to assign them more bishops and to reorganize the Diocese under the Greek "metropolitan" system (PX 84I, R. 3143, A. 1353-55; PX 58, R. 2996-97, A. 1118-1120).

The Mother Church Constitution.

In deciding the issue of whether the Mother Church had the authority to reorganize the American/Canadian Diocese, it is necessary to consider the subordinate (yet partially autonomous) status of the Diocese. It is also necessary to consider and evaluate the history of the Church

and several Articles of the Mother Church and Diocesan Constitutions. The Mother Church Constitution contains detailed regulations of Diocesan institutions, most of which are applicable to the American/Canadian Diocese (PX 68, R. 3031, A. 1176-1196). Article 16 of the Mother Church Constitution expressly and unambiguously gives the Holy Assembly the power of "establishing, naming, liquidating [and] reorganizing" dioceses. Respondents rely upon the fact that the Mother Church Constitution lists in separate Articles the Dioceses within Yugoslavia (Article 14) and those outside Yugoslavia, and that Article 15 (which lists the American/Canadian Diocese and other Dioceses outside Yugoslavia) states that they are under the jurisdiction of the Serbian Orthodox Church in "spiritual and hierarchical aspects" but does not use the word "administrative." Respondents also rely upon Article 3 of the Diocesan Constitution which states that the Diocese "enjoys full administrative freedom" (PX 30, R. 2949, A. 1021).

Again, as in the case of the disputed questions of internal church procedure dealing with Dionisije's removal, we do not burden the Court with a detailed argument concerning these disputed questions of internal church law. For the Court's information, those arguments are set forth in Appendix II to this brief.

The crucial point is that the subordinate relation of the Diocese to the Mother Church, both historically and under the constitutional provisions, clearly demonstrates that the Holy Assembly is the tribunal intended by the Church and its members to resolve these disputed questions of interpretation.

As already noted at pp. 47-48, *supra,* Article 64 of the Mother Church Constitution provides that:

> "All the decisions of the Holy Assembly of Bishops and of the Holy Synod of Bishops of canonical and church nature, in regard to faith, officiation, church order and internal organization of the church, are valid and final" (PX 68, R. 3031, A. 1158).

Article 69 empowers the Holy Assembly to interpret canonical-ecclesiastical rules and to "settle disputes of jurisdiction by the hierarchical and church/self-governing organs" (PX 68, R. 3031, A. 1158, 1161).

These disputed issues have been decided by the Holy Assembly in favor of the validity of the Diocesan reorganization. The matter was first decided on May 10, 1963 when the Holy Assembly approved the Diocesan reorganization. The Holy Assembly again decided the matter on March 5, 1964 when it rejected and denounced the actions of the illegal Sabors convened by Dionisije which had complained about the Diocesan reorganization and had attempted to secede from the Mother Church.

The conclusion that the Mother Church has authority to reorganize the Diocese is further supported by the testimony. Bishop Visarion and the Very Reverend Mladenovich testified that the highest judicatory of the Mother Church had authority to reorganize the American/Canadian Diocese in accordance with the hierarchical powers enumerated in its own constitution (A. 202-204, 142). Bishop Visarion further testified that the consent of no other party, including the Diocesan Bishop, was required for the Holy Assembly's action to be final (A. 208-09). Father Meyendorff confirmed that the Holy Assembly is the source of legal authority for any reorganization (A. 365) and expressed the expert opinion that the Diocesan reorganization was valid under both the Mother Church and Diocesan Constitutions (A. 366).

Whatever the ultimate merits of the church dispute about the degree of autonomy of the American/Canadian Diocese, it involves internal church governmental matters at "the

very core of religion." *Presbyterian Church* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church,* 393 U.S. 440, 450 (1969). Under the United States Constitution and the provisions of the Mother Church and Diocesan Constitutions, the resolution of this dispute should (absent fraud) be left to the Holy Assembly—not dragged through the civil courts.

2. There is no evidence that the Diocesan reorganization was fraudulent or involved a plot to "grab" Diocesan assets. Contrary to Respondents' claims, this is not a property case.

Respondents argue that this is a "property case" and that the entire Diocese reorganization was somehow a plot by the Mother Church to "grab" the assets of the American/Canadian Diocese (Resp. Cert. Br. at 7).

This is a transparent attempt to evade and mislabel the issues.* The short answer is: *First,* there is no evidence of any plot. *Second,* there is no evidence of any intention by the Mother Church to divert any Diocesan property from the trust under which it is held—for the benefit of the Church members in North America. *Third,* there is no evidence that the Diocesan reorganization has caused or could cause any diversion of property from that trust. Indeed, the evidence is all to the contrary.

First, there is no evidence of any plot. The evidence shows that the Diocesan reorganization grew out of repeat-

* Indeed, Respondents go to the extreme of stating that the disciplinary proceedings against Dionisije were instituted and prosecuted as a subterfuge to eliminate Dionisije's opposition to the alleged "property grab." (Resp. Cert. Br. at 6-7). But there is not a shred of evidence anywhere in the record to support the claim that the disciplinary proceedings against Dionisije (which were commenced before the Diocesan reorganization) resulted from that reorganization.

ed requests from Dionisije himself and other officials of the American/Canadian Diocese for the assignment of additional bishops to North America. (*See* pp. 16-17, *supra.*) This request created problems for the Mother Church because of the fact that the Church has no system for assigning an "assistant" bishop to serve under another bishop in one Diocese.*

The Holy Assembly's decision to reorganize the American/Canadian Diocese was not made hastily or without consultation. The matter of how to assign more bishops to North America was discussed in extensive correspondence with Dionisije (PX 38, R. 2952, A. 1090; PX 84I, R. 3143, A. 1353; PX 58, R. 2996-97, A. 1115; PX 57, R. 2996-97, A. 1115). Dionisije sent a Diocesan delegation to present the problem to the May 1962 meeting of the Holy Assembly (A. 240). Then, the Holy Synod sent a delegation which spent 88 days in the United States meeting with Dionisije and visiting various Serbian Orthodox parishes (A. 186-87; PX 73, R. 3048, A. 1279-81; PX 195A, A. 1482). Furthermore, Dionisije could have discussed the matter personally with his fellow bishops. But, despite repeated personal requests from the Patriarch and the Holy Synod to attend, Dionisije absented himself from the 1962 and 1963 meetings of the Holy Assembly on the vague grounds of "diocesan duties" (1962) and "ill health" (1963) (PX 56, R. 2996-97, A. 1113; PX 54B, R. 2987-88, A. 1107).

* The evidence showed that there were three possible solutions: (1) The reorganization of the entire Mother Church to adopt the "Metropolitan" system so that a Metropolitan could be designated for North America and have several bishops serving under him (predictably, this alternative was favored by Dionisije); (2) the reorganization of the Diocese into several dioceses, each with its own bishop (opposed by Dionisije); or (3) the assignment of Vicar Bishops (responsible directly to the Patriarch rather than to the Diocesan Bishop) to perform certain of the Bishop's duties in North America (PX 84I, R. 3143, A. 1353-55; PX 58, R. 2996-97, A. 1118; DX 141, R. 6469; PX 218, R. 8277, A. 1681-82).

Following all of this, the Holy Assembly on May 10, 1963 decided to reorganize the American/Canadian Diocese into three full Dioceses—giving the North American church three votes rather than one (out of a total of 24) in the Holy Assembly. The Holy Assembly concluded that this resolution of the problem was the best solution for American Church members and for the Serbian Orthodox Church as a whole. While the merits of the decision might be debated, there is no evidence whatever that the decision resulted from any kind of "plot" or fraudulent scheme.

Second, there is no evidence of any intention or attempt by the Mother Church to divert the Diocesan assets from the trust to which they have always been dedicated, *i.e.,* a trust in favor of the Serbian Orthodox Church members in the United States and Canada.

Throughout the lengthy proceedings in this case, involving extensive document discovery, depositions both in the United States and in Yugoslavia, and a trial at which more than 100 witnesses testified, there has never been any evidence that the Mother Church intended or even considered transferring Diocesan assets out of the United States or utilizing those assets for any purpose other than the support and furtherance of the Church's work in North America. There has never been any evidence that the Mother Church intended or considered reducing the degree to which the Church in North America is autonomous and self-governing or subjecting the American Church or any property to additional control by foreigners. We challenge Respondents to point to any such evidence. None exists. No Court in the long history of this case has found any plot to divert or "grab" the property away from its trust.

Indeed, all the evidence is to the contrary. The purpose and background of the Diocesan reorganization has already been discussed. Furthermore, in effectuating the reorganization, the Mother Church chose personnel and methods which would minimize any dislocation and leave the greatest possible discretion and flexibility in the hands of members and officials of the American Church.

Prior to 1963 every Bishop or Administrator of the American/Canadian Diocese had been a Yugoslavian cleric sent to the United States after his appointment by the Mother Church. If the Mother Church had an intention of "grabbing" the Diocesan property, it presumably would have placed the new Dioceses in the hands of Yugoslavs.

Instead, the Holy Assembly appointed, first as Administrators and later as Bishops of the three Dioceses, three clerics who had been residing in the United States (Firmilian, Stefan and Gregory) (PX 7, R. 2725, A. 915-18; PX 10, R. 2933, A. 924-25; PX 12, R. 2932-33, A. 926).* Only one year before the reorganization, these same three American clergymen had been designated by Dionisije as his candidates for "Assistant Bishops." On Dionisije's recommendation, their names were submitted to the Holy Assembly by the delegation he sent to the Holy Assembly meeting in May, 1962. (A. 270). Indeed, as late as October 1962 Dionisije wrote to Firmilian stating that he wanted Firmilian to act as an assistant or Vicar Bishop and asking Firmilian whether he would accept (PX 116, R. 2542).**

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* Indeed, the Holy Assembly at first named Dionisije (though he was suspended) as the Bishop of the Middle Western American Diocese. Dionisije was removed as Bishop and replaced by Firmilian only after the repeated acts of rebellion and defiance against the Mother Church, which we have previously described. *See* pp. 19-22, *supra.*

** Firmilian had been a Mother Church cleric in the United States since 1940 when he arrived from Yugoslavia with Dionisije. He had been appointed by Dionisije as the new Secretary of the American/Canadian Diocese (A. 301). From 1955 to 1963 Firmilian served as Dionisije's Episcopal Deputy (PX 61, R. 3008, A. 1122; PX 80, R. 3057, A. 1321).

These appointments amply demonstrate the good faith of the Mother Church and the absence of any intention to "grab property." This good faith is further evidenced by the actions of the Holy Assembly with regard to the boundaries and property of the new Dioceses.

Dionisije's annual report to the Holy Assembly dated May 25, 1962 stated that the Diocese was divided into four Episcopal Districts (PX 57, R. 2996-97, A. 1116). In reorganizing the Diocese the Holy Assembly generally followed the names and boundaries of those existing Episcopal Districts.

Thus (1) the Midwest Episcopal District (plus South Africa) became the Middle Western American Diocese, (2) the Western Episcopal District (plus Central and South America) became the Western American Diocese, and (3) the Eastern and Canadian Episcopal Districts became the Eastern American/Canadian Diocese.•

With minor exceptions, the boundaries of the Dioceses were identical to the boundaries of the Episcopal Districts. Furthermore, the Holy Assembly left to the Diocesan Bishop and Diocesan Council of the American/Canadian Diocese, not only the responsibility for drawing the exact boundary lines between the Dioceses, but also all other administrative and organizational details needed to effectuate the change (PX 4, R. 2931-33, A. 908-910).

Finally, in response to questions asked of Firmilian by the self-styled "legal advisor" to the American/Canadian Diocese with regard to the Diocesan reorganization, the

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• In a letter to the Patriarch dated July 30, 1962, Dionisije had argued that Canada was not financially capable of supporting a separate Diocese (DX 141).

Holy Synod wrote to Firmilian on October 18, 1963 (PX 128, R. 3157, A. 1446) explaining:

> "1. That all the rights of the former American-Canadian Diocese, as they relate to the autonomy in the administrative sense, remain unchanged. The only exception is the forming of three dioceses and
>
> 2. That the Constitution of the former American-Canadian Diocese remains the same and that the Dioceses in America and Canada will not, in an administrative sense, (the management (*or direction*) of the properties) be managed (*or directed*) in the same manner as those in Yugoslavia."

Not only have Respondents failed to adduce any evidence of a plan by the Mother Church to "grab property" or divert that property from its trust, but the evidence affirmatively demonstrates the good faith of the Mother Church.

Third, regardless of intention, the Diocesan reorganization did not result (and could not result) in the "grabbing" of property away from the American Church or the diversion of the property from the trust to which it is dedicated.

This conclusion follows inescapably from an examination of what would have happened absent the defiance and secession of Dionisije and his followers. The administration of the American Church would have been in the hands of three clerics who had long resided in the United States and in the hands of the Diocesan Council and the Diocesan Sabors. The organization of three new Dioceses following the boundary lines of the former Episcopal Districts would have been supervised by these clerics and by the existing Diocesan Council. The title to the Diocesan property would have remained in the names of the property-holding corporations previously created (*see* pp. 10-11, *supra*) unless and until the Diocesan authorities made changes. But whatever the changes, the property would remain in trust for all mem-

bers of the Church in the United States and Canada. New Diocesan Councils (representing the Church congregations) and other Diocesan bodies would have been created for the reorganized Dioceses. No cleric, congregation or church member would have been excluded from the Dioceses or from the use and enjoyment of Diocesan property. Dionisije would have been tried according to the procedures of the Mother Church and, if found innocent, he would have been restored to active status as Bishop of the Midwestern Diocese occupying the same monastery in Libertyville, Illinois which had been his Diocesan See since 1940. Indeed, except for the formal organizational changes, the life and work of the American/Canadian Church would have gone on as before.

The only reason these events did not occur as described was the rebellion and secession of Dionisije and his followers. They have split the Serbian Orthodox Church in America and Canada into two groups. They have deprived those faithful to the Mother Church of the use and enjoyment of Diocesan property. They now seek to have this Court follow the Illinois Supreme Court and recognize their minority faction as the "true" American/Canadian Church (*see* PX 84CC, A. 1374, ¶3). It is a sham for this schismatic group to masquerade as the protectors of the American/Canadian Church against a "property grab."

As Petitioners have asserted throughout this litigation and as the Illinois Appellate Court recognized in 1966 (A. 19-20), all of the property of the Diocese is held in trust for the Serbian Orthodox people in North America. The Diocesan reorganization has never created any danger that the property would somehow be diverted from that trust. The reorganization also did not affect the title to the diocesan property. Title remains in the corporations created for the purpose of holding that title.

Indeed, the only change relating to the property which is effectuated by the reorganization is the change in the identity of the trustee. A Diocesan Bishop is the chief executive of the Diocese and, in that capacity, controls all subsidiary diocesan organizations. (*See* pp. 67-69, *supra.*) Each of the title-holding corporations involved here recognizes that fact by making the Diocesan Bishop, *ex officio,* its principal (and in some cases only) officer.

The fact that a change in bishops changes the identity of the trustees of Church property does not convert this case into a mere property dispute. Further, the fact that a determination of the ecclesiastical issues relating to Dionisije's removal and defrockment and the diocesan reorganization (matters of church discipline and government) may incidentally affect the possession of real estate does not alter the rule requiring recognition of the decisions of church tribunals.

This Court clearly recognized that truth in *Kedroff* v. *Saint Nicholas Cathedral of the Russian Orthodox Church,* 344 U.S. 94 (1952). Technically, that case was an ejectment action concerning the right to possession of St. Nicholas Cathedral in New York City. However, since that Cathedral was the seat of the Archbishop of the Russian Orthodox Church, the right of possession and occupancy depended upon whether the legitimate Archbishop was the man appointed by the hierarchy in Moscow or the person selected by the secessionist American branch of the Church. This Court recognized the validity of the appointment by the church hierarchy in Russia and was not deceived into concluding that a mere "property" case was presented just because the recognition of a particular Archbishop also determined the right to possess and use the Cathedral. This Court stated (344 U.S. at 120-121):

> "Even in those cases when the property right follows as an incident from decisions of the church custom or

law on ecclesiastical issues the church rule controls. This under our Constitution necessarily follows in order that there may be free exercise of religion."

Justice Frankfurter in a concurring opinion expressed the same thought in the following language, which is a complete answer to Respondents' attempts to mis-characterize this case as a "property" dispute (344 U.S. at 121, 123):

> "St. Nicholas Cathedral is not just a piece of real estate. It is no more that than is St. Patrick's Cathedral or the Cathedral of St. John the Divine. A cathedral is the seat and center of ecclesiastical authority. St. Nicholas Cathedral is an archiepiscopal see of one of the great religious organizations. What is at stake here is the power to exert religious authority. That is the essence of this controversy. It is that even though the religious authority becomes manifest and is exercised through authority over the Cathedral as the outward symbol of a religious faith. . . . A legislature is not free to vest in a schismatic head the means of acting under the authority of his old church, by affording him the religious power which the use and occupancy of St. Nicholas Cathedral make possible."

CONCLUSION

For the reasons stated above, this Court should reverse the decision of the Supreme Court of Illinois and recognize as binding and conclusive on the civil courts the decisions of the tribunals of the Mother Church which are challenged by Respondents in this litigation.

Specifically, the decision of the trial court should be affirmed insofar as it concluded that:

(1) Dionisije was validly suspended, removed and defrocked, and has not been entitled to exercise any authority as a Bishop of the Serbian Orthodox Church or as an official of the American/Canadian Diocese since May 10, 1963; and

(2) Firmilian was validly appointed as Administrator of the American/Canadian Diocese on May 10, 1963, has held that position since that date, and is fully entitled to exercise all of the powers, duties and authority of Administrator with respect to the American/Canadian Diocese.

The decision of the trial court should be reversed insofar as it concludes that the reorganization of the American/Canadian Diocese into three dioceses was invalid.

This Court should direct the trial court to enter a decree consistent with those decisions, including appropriate provisions removing Dionisije and any and all of his agents from the See of the Diocese, placing Bishop Firmilian in possession and control thereof, and assess costs against Respondents.

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APPENDIX I

Respondents contend that the procedures used in the disciplinary proceedings concerning Dionisije violated the internal regulations of the Mother Church in twelve respects (Resp. Cert. Br. at 9-11).* Respondents premise their arguments upon certain sections of the Mother Church Constitution and Penal Code.

Because of their position concerning the matters properly before this Court for decision, Petitioners have not included a detailed discussion of these alleged procedural errors in the text of their brief. However, Petitioners expect that Respondents will attempt to make their procedural arguments before this Court. Accordingly, Petitioners have prepared this Appendix I for the Court's information. The Appendix reviews chronologically the disciplinary proceedings against Dionisije, noting Respondents' arguments as they arise.

The Suspension of Dionisije

a. Synopsis of Relevant Events

On June 29, 1962, the Holy Synod appointed a delegation to go to the United States in order to confer with Dionisije concerning the continuing accusations made against him (PX 73, R. 3048, A. 1279-81; A. 187). The delegation traveled widely in the United States, visiting American parishes, conferring with Dionisije and other officials, and conduct-

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* For ease of reference, these twelve alleged procedural objections will hereinafter each be referred to by the number accorded by Respondents at 9-11 of Respondents' Certiorari Brief, as follows: Objection .....

ing interviews. The delegation's report recommended that a Commission be appointed to undertake further investigation of the complaints against Dionisije (PX 195A, A. 1532-35).

The Holy Assembly of Bishops, in its morning session on May 10, 1963, unanimously recommended that the Holy Synod institute disciplinary proceedings against Dionisije (A. 167; PX 2, R. 2931, A. 902-04). The Holy Synod then suspended Dionisije and appointed Firmilian, Dionisije's chief episcopal deputy, as Administrator of the American/Canadian Diocese (A. 167; PX 2, R. 2931, A. 901-02). In its afternoon session on May 10, the Holy Assembly reorganized the American/Canadian Diocese into three Dioceses, appointing Dionisije, though still under suspension, as Bishop of the Midwestern American Diocese with his See remaining at Libertyville, Illinois (PX 4, R. 2931-33, A. 908-910; PX 7, R. 2725, A. 915-16).

b. Applicable Internal Church Regulations

Respondents do not dispute that the Holy Synod has the power to suspend a Bishop pending disposition of the charges against him. Indeed, as Respondents conceded below (Dionisije Br., Ill. Sup. Ct. at 39), the Holy Synod in the present case ordered the temporary suspension of Dionisije and the appointment of Firmilian during the pendency of the proceedings pursuant to its role as temporary "Diocesan Bishop" (Penal Code, Art. 90, PX 69, R. 3036, A. 1270) under the powers given the Diocesan Bishop by Articles 219 and 220 of the Constitution of the Mother Church.*

* Article 219 (PX 68, R. 3031, A. 1223) provides, in pertinent part, that the diocesan bishop may act upon complaints to "suspend" a clergyman "immediately after the commencement of investigation . . . until the verdict of the church court is rendered." Article 220 (PX 68, R. 3031, A. 1224) likewise provides that "the accused may be removed from the administration by the diocesan bishop until his offenses are finally investigated and judged."

That the Holy Synod had the power to suspend Dionisije is therefore not open to doubt.* Indeed, Father Meyendorff, the only independent ecclesiastical expert who testified at the trial, noted that Dionisije's suspension is a measure taken "in the general practice of common canon laws when a person is called for trial" (A. 397).

Respondents challenge the suspension only on the theory that it was premature, asserting that Dionisije was punished prior to being advised of the charges against him (Objection 1). Respondents' position apparently is that the suspension was improper (1) because it occurred during the investigation of charges against Dionisije and before indictment, and (2) on the theory that the suspension imposed a "Church penalty" without a hearing. These charges misconstrue the facts and misinterpret Church law.

Dionisije's suspension occurred after the commencement of the investigation of the charges against him. Articles 219 and 220 of the Mother Church Constitution (PX 68, R. 3031, A. 1223-24), as well as Article 90 of the Penal Code (PX 69, R. 3036, A. 1270), all contemplate a suspension pending investigation. That is precisely what was done here. In any event, this is not a case where a bishop was suspended before any preliminary investigation of the charges

* Nor is there any doubt that the appointment of Firmilian by the Holy Synod as Administrator following the suspension of Dionisije was authorized. That appointment followed as a necessary corollary to Dionisije's suspension. The vacancy created by that suspension was required to be filled as soon as possible in accordance with Article 112 and Article 70.21 of the Mother Church Constitution (granting to the Holy Synod sole authority to appoint Administrators for Dioceses temporarily without a Bishop) (PX 68, R. 3031, A. 1182, 1163), and Articles 9 and 13 of the Diocesan Constitution (providing that in the event the seat of the Diocesan Bishop is vacated, the Holy Synod and not any Diocesan authority is to appoint an Administrator for the Diocese) (PX 30, R. 2949, A. 1023, 1026).

against him. There was in this case a pre-suspension investigation of complaints against Dionisije by the 1962 delegation.

Nor is there any merit to Respondents' complaint that Dionisije was subjected at the time of his suspension to a "Church penalty" without a hearing. Respondents apparently contend that Dionisije's suspension and subsequent appointment as Bishop of the new Midwestern American Diocese, pursuant to the Diocesan reorganization, was a transfer of Dionisije's See to "another place of service" and was therefore a penalty under Article 216(4) of the Mother Church Constitution (PX 68, R. 3031, A. 1222) and Article 55 of the Penal Code (PX 69, R. 3036, A. 1257). Of course, there is no evidence that the diocesan reorganization was intended as a penalty against Dionisije.

In any event, Dionisije's See was never transferred to another place. A bishop's See or Seat is ". . . his office or dignity, as being Bishop of a given diocese" (Black's Law Dictionary, 4th ed. 1951). It is also defined as ". . . the seat of the power or authority of a bishop; the diocesan center, hence the rank, office . . . etc. of a bishop . . ." (Webster's New Collegiate Dictionary, 1961 ed.). A diocese, by contrast, is merely the geographic territory ascribed to a particular See. A diocese is the "territorial [geographical] extent of a bishop's jurisdiction." (Black's Law Dictionary, 4th ed. 1951). Since the See of the American/Canadian Diocese was at Libertyville or Chicago and the See of the Midwestern American Diocese remained at Libertyville, with Chicago still under its jurisdiction, Dionisije's See remained the same under Article 15 (PX 68, R. 3031, A. 1143) of the Mother Church Constitution.

Furthermore, Respondents' argument that Dionisije was subjected to a "Church penalty" effectively amounts to the

contention that a diocese can never be subdivided or reorganized unless the diocesan bishop consents or is convicted of a church crime. There is no basis in the internal Church regulations for this contention. On the contrary, Article 16 of the Mother Church Constitution (PX 68, R. 3031, A. 1143) expressly provides that decisions involving the "establishing, naming, liquidating, reorganizing, and the seat of the dioceses" are made by the Holy Assembly. As Bishop Visarion testified, reorganization of a diocese is a hierarchical act (A. 202-204) and is not subject to the consent of the diocesan bishop (A. 208). Father Meyendorff and the Very Reverend Mladenovich confirmed this view (A. 366, 142). See also Appendix II, *infra*.

The Removal of Dionisije

a. Synopsis of Relevant Events

Commencing immediately after his suspension, Dionisije condemned the Patriarch, the Holy Assembly and the Holy Synod as Communists, atheists and heretics; renounced his subservience to them (in flat violation of his Bishop's oath); refused to recognize or accept any of their decisions; threatened to litigate his suspension (and to sue his accusers) in the civil courts; and announced (in advance of its arrival) that he would refuse to cooperate with the delegation of Bishops to which the Holy Synod had assigned the task of investigating the charges against him. (Communications of May 25, PX 74, R. 2755, A. 1281-82; May 27, PX 84K, R. 3141-43; May 30, PX 120, R. 2846, A. 1440-41; June 3, PX 71, R. 3048, A. 1271-77; June 28, PX 78, R. 3056, A. 1311-12; July 5, DX 258, A. 1765.)

On June 6, 1963, Dionisije refused to recognize the appointment of Firmilian as Administrator of the Diocese and summarily discharged Firmilian, two of his Vicars

General, and everyone else at the June 6 Diocesan Council meeting who continued to accept the authority of the Mother Church. He announced that only those Diocesan authorities who remained loyal to him—rather than the Mother Church—had authority to consider the charges against him (A. 317-18, 617-18; PX 75, R. 3053, A. 1289-90; PX 80, R. 3057, A. 1321-22; PX 81, R. 3058, A. 1323; PX 87, R. 3084, A. 1382-83).

When the Investigating Commission attempted to meet with Dionisije on July 5 to discuss the charges against him, Dionisije again rejected the authority of that Commission and refused to answer any oral questions or otherwise participate in any hearings. He admitted authoring the May 23 and 27 circulars, and demanded that the minutes of his meeting with the Commission include his declaration that he stood:

> ". . . by all of those things which I have written and declared concerning [the May, 1963] decisions of the Holy Assembly of Bishops" (A. 213).

On July 11, 1963, Dionisije wrote the Patriarch repeating his defiance of the May, 1963 actions of the Holy Assembly and Holy Synod, and threatening open revolt (DX 150, R. 6553, A. 1640). Four days later, Dionisije continued his defiance in a circular letter to all parishes in the Diocese (PX 88, R. 3085, A. 1383-93) attacking the Mother Church authorities as "pro-Communistic," published at large his July 11 letter to the Patriarch, and threatened to sue the Mother Church in the civil courts.

Informed by the Investigating Commission of Dionisije's conduct, the Holy Assembly held a special meeting and, on July 27, 1963, removed or released Dionisije as Bishop. The exhibits and testimony relating to the July 27 meeting show unequivocally that Dionisije was not removed as Bishop because of any of the pre-May 10 charges against him,

but solely because of his conduct following his May 10, 1963 suspension. That conduct was proved by Dionisije's own letters and circulars and by his admissions to the Investigating Commission, and is not disputed by Respondents (PX 8, R. 2931-33, A. 919-23).

b. Applicable Internal Church Regulations

Respondents make several procedural objections to Dionisije's removal. Specifically they contend that (1) Dionisije was denied copies of the complaints against him and an opportunity to confront his accusers (Objection 2); (2) Dionisije was afforded no opportunity to rebut charges by presenting witnesses in his behalf (Objection 3); (3) the Investigating Commission which recommended trial and deposition had not read the accusations against him (Objection 5); (4) Dionisije was punished before he was advised of the charges against him (Objection 1); and (5) Dionisije was denied adequate information necessary to present a defense (Objection 10). Respondents thus argue that Dionisije's removal lacked the "due process" required by the Mother Church Constitution and Articles 67 through 71 of the Penal Code (PX 69, R. 3036, A. 1263-65).•

All of these objections, however, depend upon a false assumption. Respondents assume that Dionisije was removed as Bishop and defrocked because the Holy Synod and Holy Assembly adjudicated against Dionisije the older charges of personal misconduct which had caused his suspension on May 10. Having made this basic assumption, Respondents of course argue that there was no proper procedural or evidentiary basis for that supposed adjudication.

• The "Due Process" to which Article 66 and other Articles refer is merely the procedure established by the Mother Church for investigating and deciding changes. It does not adopt by reference the concept of due process developed by American courts.

However, the record plainly demonstrates that Dionisije's removal on July 27 was based, not on the older charges, but rather upon Dionisije's public activities following his suspension.

The July 27 order removing Dionisije is quite explicit on this point (PX 8, R. 2931-33, A. 919-23). After listing numerous facts demonstrating Dionisije's defiance of the authority of the Mother Church and his complete refusal to cooperate with the Administrator and the Investigating Commission, that order concludes that Dionisije

> ". . . has trampled his episcopal oath and lost the conditions set forth in article 104, point A and D [of the Mother Church Constitution], and on the basis of article 111 is deposed from duties of a diocesan bishop. . . ."

Under Article 111 of the Mother Church Constitution Dionisije was properly deposed because he no longer was fulfilling the "conditions provided for in (Article 104)."* Dionisije's post-May 10 conduct certainly justified the Holy Assembly in concluding that he failed to comply with two conditions required under Article 104 for a bishop: (1) Dionisije had violated numerous "canonical-legal conditions foreseen for the rank of Bishop," including his violation of his oath of office (Art. 104A); (2) Dionisije was no longer engaged in "dedicated work for the good of the [Mother] Church . . ." (Art. 104D) (PX 68, R. 3031, A. 1177).

The Illinois Supreme Court expressed confusion on this point in its evaluation of the testimony. Apparently that

* Article 111 provides: "The Holy Assembly of Bishops may remove the Diocesan Bishop only by canonical verdict, or release him upon proof of incapacity, or by establishing proof of one of the conditions provided for in (Article 104), as well as justified application for pension." (PX 68, R. 3031, A. 1181).

Court was troubled by the fact that certain witnesses labeled the action of the Holy Assembly on July 27, 1963 as a "release," while others labeled it a "deposition" or a "removal."* In concerning itself with the precise label used to describe that action, however, the Illinois Supreme Court placed undue emphasis upon a nuance of language. The important factor is not the precise label used to describe the action taken by the Holy Assembly, since the terms "release", "deposition," and "removal" may all be used interchangeably to describe the fact that a bishop is no longer in charge of a diocese.** Rather, the important factor is the basis for the action of the Holy Assembly.

In this case, that basis is clear and undisputed. Dionisije confessed the requisite facts in his own letters, circulars and oral statements (PX 8, R. 2931-33, A. 919-23).

In these circumstances, Dionisije was afforded any "due process" required by the Mother Church Constitution. His claim that he was denied "basic due process" by the Investigative Commission ignores his defiance and refusal to cooperate with the Commission. The Commission had carefully brought with it to America all of the pre-May 10 complaints and accusations against Dionisije in order to discuss them with Dionisije in detail. But Dionisije flatly refused to recognize the authority of the Holy Synod and the Commission, or participate in the hearings (DX 152, A. 1647; PX 17, R. 2915, A. 982). The suggestion that the Commission should somehow have proceeded as though Dionisije's defiance had not occurred is senseless.

There is no merit to Dionisije's claim that the Commission never read the pre-May 10 accusations. The wit-

* In fact, Article 111 uses both the terms "remove" and "release," while the order of July 27, 1963 uses the term "depose."

** As Father Meyendorff testified, deposition is the removal of a Bishop from his canonical duties in a diocese (A. 389).

nesses did not so testify. Also, Respondents' assertion is belied by the undisputed fact that two members of the Commission, Bishop Chrysostom and Protodeacon Tripkovik, remained in the United States investigating these very charges (PX 197A, A. 1535-43, A. 215). In any event, this complaint, like the others, is irrelevant to the July 27 removal, since Dionisije was not removed on the basis of the pre-May 10 complaints. The basis for that removal was supplied by Dionisije's letters and circulars which the Commission read, and the admissions which Dionisije made to the Commission.

Similarly, considering Dionisije's defiance and rebellion, Dionisije was not denied Church "due process" by the Holy Synod and Holy Assembly. Under the circumstances, these judicatories were not required to provide Dionisije with a formal hearing where Dionisije could confront his accusers, present witnesses on his behalf, or introduce evidence in his defense. A hearing would have been superfluous, since the charges that served as the basis for removing Dionisije were admitted. Furthermore, the post-May 10 conduct of Dionisije amply demonstrated that Dionisije did not even recognize the authority of the Mother Church to hear and resolve these charges.

In these circumstances, Dionisije was properly defaulted under the applicable provisions of the Penal Code. As Article 66 of the Penal Code provides (PX 69, R. 3036, A. 1262-63):

> "If a person accused of a church violation does not comply with the summons, or refuses to accept the summonses and decrees of the court, or does not choose to reply to them, it shall be considered that he acknowledges the act and Due Process shall be concluded without his participation."

Article 67 of the Penal Code provides, in pertinent part (PX 69, R. 3036, A. 1263):

> "The initiation of the Due Process is not bound by any formalities."

Dionisije was removed as Bishop by the highest judicatory of his own hierarchical Church on the basis of his admitted violations of his Bishop's oath and his admitted repudiation of the hierarchical authority of the church. Indeed, the record shows that Dionisije really left the Mother Church with no alternative but to remove him.

The Indictment of Dionisije

a. Synopsis of Relevant Events

Dionisije was warned by the Investigating Commission on July 5 that his defiance and rebellion left the Mother Church no choice but to proceed against him by ecclesiastical indictment and trial (DX 152, A. 1646).

Nevertheless, Dionisije broadcast a circular like the others (September 20) and called and presided over two illegal Sabors, at which Dionisije and his followers purported to amend the Diocesan Constitution and secede from the Mother Church (PX 90, R. 3090; DX 240, A. 1703-1719; PX 59, R. 2996-97, A. 1120-22; PX 84CC, A. 1369-75). Both then and now, Dionisije not only admits but proclaims his attempt in 1963 to sever the Diocese in this country from the Mother Church.

On October 18, 1962, a formal written indictment against Dionisije was forwarded to Dionisije by the Holy Synod for his response (PX 16, R. 2932-33, A. 930-81; PX 84R, p. 99, R. 3149).* On November 18, 1962 (a few days after

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* On March 5, 1964, the indictment against Dionisije was supplemented to include the offenses openly and admittedly committed by Dionisije on November 13 and 14, 1963, in declaring the Diocese completely autonomous from the Mother Church and thereby attempting to create a non-canonical hierarchy outside the jurisdiction of the Mother Church. (DX 254, A. 1755; PX 21, R. 2933, A. 1005-06).

the so-called Sabor of the Dionisije faction had purported to secede from the Mother Church altogether), he acknowledged receipt of the indictment. He also asked the Holy Synod (1) to allow him six months from December 1, 1963, within which to reply to the indictment, and (2) to copy, verify, and send to him all of the reports, complaints and denouncements mentioned in the indictment (DX 243, A. 1727-34).

Despite Dionisije's prior conduct, which cast serious doubt on his good faith in requesting additional time, the Holy Synod nevertheless granted Dionisije an extension to mid-January (DX 243, A. 1734). The Holy Synod also denied Dionisije's request for verification and copies of the documentary material referred to in the indictment (DX 243, 1727-34; PX 20, R. 2933, A. 987-88).

b. Applicable Internal Church Regulations

Respondents challenge the indictment procedure, claiming that Dionisije was denied adequate time and information necessary to make a defense (Objection 10); that Dionisije was presented with an indictment omitting necessary information (Objection 11); and that Dionisije was charged with offenses upon which the Penal Code Statute of Limitations had expired (Objection 12).

Dionisije was afforded adequate time to respond to the indictment. In light of Dionisije's prior refusals to cooperate in the disciplinary procedings, the Holy Synod acted reasonably in setting a date three months after the indictment had been sent to Dionisije. Dionisije was granted time far in excess of the norm. Under the applicable canonical rule (Regulation 19 of the Council of Carthage), the time period in which to respond to an indictment in an ordinary case is one month, and in a special case two months. Under Article 70 of the Church Penal Code, the

time period is only 14 days (PX 21, R. 2933, A. 1006; PX 69, R. 3036, 1264).

Furthermore, the Holy Synod was mindful of the requirement in Article 219 (PX 68, R. 3031, A. 1223) of the Mother Church Constitution that the Church was obligated to complete the disciplinary proceedings against Dionisije within a period of one year. Since the proceedings commenced in May, 1963, the Holy Synod could not comply with Dionisije's request for a six-month extension from December 1, 1963, without exceeding the one-year limitation.

Nor was the indictment lacking in necessary information. In denying Dionisije's request for "verified" copies, the Holy Synod explained that the 37-page indictment itself contained a description of the material elements of each charge, and that the requested material was evidentiary in nature (DX 243, A. 1727-34; PX 20, R. 2933, A. 987-88).

Furthermore, no legal or canonical rule required the forwarding of this evidentiary material to Dionisije. On the contrary, Article 69 of the Penal Code (PX 69, R. 3036, A. 1264) requires only "exact citations of evidence" in an indictment. As Bishops Vasilije and Visarion and the Very Reverend Mladenovich testified, there is no requirement whatsoever that the indictment include that evidence (A. 664-66, 679, 687, 155). Indeed, nothing in the Penal Code envisions the submission of evidence (as opposed to an indictment) to the accused. The contrary testimony of Respondents' witness, Stefanovic, is not supported by anything but his own opinion and his conclusionary statements about practices in unidentified prior cases (A. 422-26).

Respondents' other objection to the indictment procedure also lacks merit. The charges against Dionisije were not

barred by the Penal Code Statute of Limitations. Article 60 of the Penal Code (PX 69, R. 3036, A. 1260) applies a five year Statute of Limitations only if during that time the guilty party "does not commit a new church transgression." In the case at bar, however, the complaints against Dionisije continued until his defrockment. In these circumstances, the five year Statute of Limitations does not apply.

Dionisije's Trial and Defrockment

a. Synopsis of Relevant Events

Dionisije refused to answer the indictment forwarded by the Holy Synod, asserting that it would be "absolutely useless" for him to participate in any of the proceedings against him (Telegram of January 13, 1964, PX 84V, R. 3152; letter of January 25, 1964, PX 84W, R. 3153, A. 1360-64). As he had done in his prior letters and public statements, he attacked the Patriarch, Holy Assembly and Holy Synod as schismatic, pro-Communist, atheistic and heretical.

Thereafter, on February 24, 1964, the Holy Synod determined that it had "exhausted its authority" to proceed any further in the disciplinary proceedings. The Holy Synod presented to the Holy Assembly "the case of Bishop Dionisije Milivojevich" and asked for a "final verdict" of the Holy Assembly on the case (DX 254, A. 1758; PX 21, R. 2933, A. 989-1008).

The Holy Assembly treated Dionisije's case as a default matter, since he had refused to respond to or otherwise participate in the proceedings. The Holy Assembly voted unanimously to find him guilty and to defrock him. Three of the six grounds for this judgment were the charges based upon the open and undisputed acts of defiance, rebellion and secession which Dionisije had committed subsequent to May 10, 1963 (PX 21, R. 2933, A. 989-1008).

b. Applicable Internal Church Regulations

Respondents also challenge the procedural validity of Dionisije's trial and defrockment. Respondents particularly raise three interrelated arguments: (1) that although the Holy Synod was the Court with proper jurisdiction, Dionisije was not tried by the Holy Synod (Objection 6); (2) that Dionisije was tried by the Holy Assembly of Bishops which did not have jurisdiction to try him (Objection 7); and (3) that Dionisije was denied the right of appeal guaranteed to him by both the Mother Church Constitution and the Penal Code (Objection 8). In addition, Respondents assert that persons who were disqualified participated in the judgment against Dionisije (Objection 9), and that Dionisije was convicted on accusations of which he was never apprised (Objection 4). Respondents also reiterate their claims that Dionisije was not permitted to confront his accusers (Objection 2) or present witnesses in his defense (Objection 3). These contentions again are wrong on the facts and misconstrue the governing church law.

Respondents' arguments ignore three matters which made the factual circumstances of this case unique. First, this was a proceeding against a bishop. As Bishop Vasilije testified, this was the first time in memory that the Mother Church had ever instituted a defrockment action against a bishop (A. 663, 674, 675). Not only was there no precedent for the procedures to be followed, but a reading of the Mother Church Constitution and Penal Code shows that they were drafted primarily to regulate the trials of clergy of lesser rank—not bishops.

Second, Dionisije had repeatedly defaulted and refused to participate in the proceedings against him. The Mother Church Constitution, Penal Code and canonical rules provide little detail concerning the proper disposition of a de-

fault matter. Indeed, as Respondents' own witness Stefanovic indicated in his testimony, the provisions generally assume the participation of the accused. (A. 417-418). However, Articles 66 and 70 of the Penal Code show that no full, adversary hearing is contemplated in a default case, and that the situation is to be treated like a guilty plea. Article 66 provides (PX 69, R. 3036, A. 1262):

> "If a person accused of a Church violation does not comply with the summons or refuses to accept the summonses and decrees of the Court, or does not choose to reply to them, it shall be considered that he acknowledges the act and Due Process shall be concluded without his participation."

Article 70 provides, in pertinent part (PX 69, R. 3036, A. 1264-65):

> "Should the accused not submit his reply to the indictment within that period, it shall be considered that he acknowledges the transgression and that he waives that right."

Third, as already noted, many of the most serious charges were based on undisputed facts concerning Dionisije's conduct after May 10, 1963. This conduct was proved by Dionisije's letters, circulars, admissions to the Investigating Commission, and public actions at the secessionist "Sabors." Those facts were not contested in 1963-64, and are not contested now.

These matters dispose of Dionisije's procedural objections. They obviously render frivolous his complaint that he was denied an opportunity to confront his accusers or present witnesses in his defense.*

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* These matters also answer Dionisije's complaint that he received no notice of the March 5, 1964 amendment to the indictment. Additional notice would have been useless, since he was in default and repeatedly asserted his determination to refuse to participate in the proceedings. Furthermore, the matters added by the amended indictment (the secession at the November Sabor) were public acts which are undisputed.

Dionisije has no basis to complain about the judgment of defrockment. In its judgment order (PX 21, R. 2933, A. 989-1008), the Holy Assembly recited six "ecclesiastical-canonical transgressions" as the basis for the defrockment of Dionisije. These transgressions were premised upon Dionisije's violation of a number of Church canons and constitutional provisions, including Canon 6 of the Second Ecumenical Council, Canons 14 and 15 of the Council of Antioch, and Canon 12 of the Council of Carthage. Of these six transgressions, the first three were and are based on undisputed and admitted facts.

These include (1) his refusal to cooperate with or participate in the proceedings of the July 1963 Investigating Committee; (2) his officiating at Church ceremonies and performing the duties of a Diocesan Bishop, not only after his May 10, 1963 suspension, but also after his July 27, 1963 removal; and (3) his attempt to proclaim the Diocese fully autonomous and to separate it from the Mother Church at the illegal 1963 Sabors.

As to the three remaining categories of transgressions, which comprised the charges of pre-May 10, 1963 personal misconduct against Dionisije, it need be noted only that his default is the equivalent of a guilty plea under the Penal Code. Dionisije had ample opportunity to respond to the accusations of personal misconduct within the ecclesiastical procedures of the Mother Church. He refused, however, to participate before the Investigating Commission in July, 1963, or to plead to the indictment against him. The time has now long passed for Dionisije to seek to litigate the truth of these accusations of personal misconduct.

Dionisije makes the technical argument that he should have been tried " in the first instance" by the Holy Synod with the Holy Assembly acting as an appellate body and

judging "in the second instance." At the outset, the making of this argument by Dionisije is incredible, for two reasons. First, it is incredible for Dionisije to ask a civil court to decide the internal church issue of whether he should be tried by the Holy Assembly of Bishops or by its executive arm, the Holy Synod. Second, it is incredible for Dionisije to complain about the sequence or number of church "courts" involved in proceedings in which he persistently refused to participate. In view of this refusal to participate, it made no difference to Dionisije whether he was tried by one court or several courts, and in what order. By reason of his own default and his admission of acts of defiance which constituted serious ecclesiastical offenses, these procedural distinctions could not have changed the result or caused him any prejudice.

However, since Respondents will no doubt argue the point, and since the Illinois Supreme Court apparently accepted their argument, we will proceed to consider the question in detail.

The facts in the record are quite simple. The Holy Synod initially reviewed the facts and documents, treated the case as a default matter, concluded that it had "exhausted its authority" to proceed any further in the disciplinary proceedings, and presented this case to the Holy Assembly for "final verdict." (DX 254, A. 1758). The Holy Assembly in turn, likewise viewed this case as a default matter, voted unanimously to defrock Dionisije, and entered a judgment order primarily based upon Dionisije's contumacy, defiance, and rebellion from the Mother Church (PX 21, R. 2933, A. 989-1008; DX 254, A. 1758-61).

In light of the novel nature of these disciplinary proceedings, these actions were entirely proper and fair. Like default proceedings in civil courts, they do not necessarily track in detail the procedures specified for ordinary cases.

Nevertheless, if one were to attempt to track the disciplinary proceedings in this case through the detailed provisions of the Penal Code, the actions of the Holy Synod and Holy Assembly are sustained on either of two alternative bases.

First, these disciplinary proceedings may be properly characterized as actions undertaken by the Holy Synod in the "first instance" and by the Holy Assembly in the "second instance" in the exercise of their respective jurisdictions. As provided in Article 70 of the Mother Church Constitution, the Holy Synod in this case did exactly what was required—judge Dionisije's case "in the first instance." As Bishop Visarion, the author of the Penal Code, testified, it was the Holy Synod which initially considered the information provided by Dionisije and by the Investigating Commission (A. 215-16). It was the Holy Synod which authorized the preparation of the indictment against Dionisije (PX 16, R. 2932-33, A. 930).

Carrying out its functions, the Holy Synod reviewed the report of the Investigating Commission, considered the undisputed facts and Dionisije's default and concluded, pursuant to its Act of February 25, 1964, Syn. No. 357/Min. 78 that it had "exhausted its authority" pursuant to Article 70 of the Mother Church Constitution (DX 254, A. 1758; PX 21, R. 2933, A. 1006-07). As noted above, Article 70 provides that an accused who does not reply to an indictment is considered to "acknowledge the transgression" charged. The Holy Synod thus presented the case to the Holy Assembly for "final verdict" as required by "6 rules of the II Ecumenical Council, 14 and 15 rules of the Antioch Council, rule 12 of the Cartige Council" and Article 7 (PX 68, R. 3031, A. 1139) and Article 69, Section 27 B (PX 68, R. 3031, A. 1161) of the Mother Church Constitution. (DX 254, A. 1758; PX 21, R. 2933, A. 1006-07)

Indeed, because the Holy Synod was recommending that a verdict be returned involving the defrockment of a bishop, the Holy Synod was required by Article 77 of the Penal Code to submit Dionisije's case "by official procedure to the Holy Assembly as court of the "second instance for final review" (PX 69, R. 3036, A. 1266).

The Holy Assembly then "accepted" the recommendation of the Holy Synod that it pronounce "a final verdict in regard to the offenses" of Dionisije (DX 254, A. 1758-59). Taking the case in the second instance, the Holy Assembly reviewed the indictment, considered the facts and documents, and determined that Dionisije was in default by virtue of his failure to answer the indictment and his defiance of the authority of the Mother Church (DX 254, 1759; PX 21, R. 2933, A. 989-1008).

The Holy Assembly then unanimously rendered its verdict and judgment of guilty "on the basis of Canon 6 of the Second Ecumenical Council; Canons 14 and 15 of the Council of Antioch; Canon 12 of the Council of Carthage;" and Articles 7 and 69 of the Mother Church Constitution (DX 254, A. 1759; PX 21, R. 2933, A. 1007). In making this decision in the "second instance", the Holy Assembly provided Dionisije with the very decision on appeal under Article 78 (PX 69, R. 3036, A. 1267) of the Penal Code which he now claims was denied him.

Moreover, there is an alternative characterization of the disciplinary proceedings against Dionisije. Those proceedings may be viewed as the defrocking of a Bishop by the Holy Assembly in the proper exercise of its exclusive jurisdiction in the "first instance" over disagreements between the Holy Synod and one of its bishops. As noted, the Holy Synod commenced to judge Dionisije's case "in the first instance" under Article 70 of the Mother Church Constitution.

However, it may be argued that the Holy Synod was precluded under Church law from rendering a final verdict on Dionisije's case. Bishop Visarion testified that the Holy Synod's role was properly completed upon conclusion of its preliminary investigation, preparation and consideration of the case as an executive organ of the Holy Assembly, which accepted the Holy Synod's work and then was to evaluate it in judging the Bishop "in the first and second instance". (A. 677-685). Or one might say that when Dionisije rejected the legitimacy of the entire disciplinary proceeding by the Holy Synod against him and asserted that only his own followers could properly judge his transgressions (PX 84W, R. 3153, A. 1360-1364; PX 8, R. 2931-33, A. 920), Dionisije's case was no longer within the province of the Holy Synod to resolve.

Rather, under this view, Dionisije's case fell within the exclusive jurisdiction of the Holy Assembly under Article 69, Section 27A of the Mother Church Constitution. Under that provision, the Holy Assembly is to settle disputes "in the first and final instances" in all matters where there are "disagreements between bishops and the Holy Synod" (PX 68, R. 3031, A. 1161). Here, Dionisije raised a dispute over whether the Holy Synod could legitimately engage in disciplinary proceedings against him. Once this disagreement came to the attention of the Holy Synod, the Holy Synod could proceed no further. Thus, the Holy Synod determined that it had "exhausted its authority" under Article 70 of the Mother Church Constitution, and presented the case to the Holy Assembly for "a final verdict" to be rendered by the Holy Assembly "in the first instance." (DX 254, A. 1754). In this view of events, this was not a case in which an appeal was available to Dionisije pursuant to Article 78 (PX 69, R. 3036, A. 1267) of the Penal Code. Under Article 78, no appeals from judgment decrees of courts of the first instance are allowed in cases brought to the Holy Assembly by reason of a disagreement be-

tween the Holy Synod and a Bishop. Therefore, the judgment rendered in the "first instance" by the Holy Assembly was a final decree from which no appeal could be taken.

Finally, there was no procedural error in the fact that several of the Bishops who had investigated Dionisije participated in the proceedings of the Holy Assembly which led to his defrockment. Dionisije attempts to support his claim by referring to Article 124 of the Mother Church Constitution (PX 68, R. 3031, A. 1184). But that Article refers to a Diocesan Ecclesiastical Court, not to the Holy Assembly of Bishops conducting the trial of a bishop.

Indeed, a rule prohibiting participation by a number of bishops in defrockment proceedings would be inappropriate for the Holy Assembly. As Father Meyendorff testified, no Church rule prevents the Holy Assembly from considering disciplinary actions against one of its members—because the member Bishops, by virtue of their episcopal office, have the duty to vote on questions of that importance. (A. 361).

In summary, the testimony of Father Meyendorff, a noted theologian, author, scholar, historian, and educator (A. 345-48) should be considered. Father Meyendorff studied the Constitutions of the Mother Church and of the Diocese and reviewed all of the decisions and orders of the Holy Assembly and Holy Synod pertaining to Dionisije's suspension, removal, and defrockment (A. 360). Testifying as an expert witness on the Orthodox Church and on ecclesiastical law and procedure, Father Meyendorff stated without qualification that Dionisije was properly suspended, removed, and defrocked under the Constitutions and canons pertaining to those proceedings. (A. 360-62).

In this regard, Father Meyendorff particularly noted that Dionisije appealed from the decision of the Mother Church under Canons 9 and 17 of the 40th Ecumenical

Council, allowing appeals in certain cases from a decision of the Holy Assembly to bishops of other autocephalous Orthodox Churches. Here, Dionisije appealed both to the Patriarch in Moscow and the Patriarch in Constantinople from the decisions of the Holy Assembly. His appeal was rejected by each Patriarch. (A. 363-364). Thus, the bishops of other autocephalous churches of the Orthodox Church were of the unanimous consensus that Dionisije's appeal to them lacked all merit. As Father Meyendorff concluded, "[t]he very fact that this defrockment has been recognized universally by all Orthodox Churches raises in my mind a very practically, decisive argument" demonstrating the validity of the actions of the Holy Assembly in this case (A. 364).

APPENDIX II

Respondents contend that the Mother Church lacked authority under internal church regulations to reorganize the American/Canadian Diocese into three Dioceses. As with the matters discussed in Appendix I, Petitioners respectfully submit that the correct interpretation of internal Church regulations is not relevant or proper for this Court's consideration. In view of Respondents' contrary position, however, Petitioners have prepared Appendix II for the Court's information. This Appendix reviews the basis for the reorganization of the American/Canadian Diocese, addressing Respondents' arguments where appropriate.

Synopsis of Relevant Events Concerning the Diocesan Reorganization

For a number of years, Dionisije, citing the growth of the American/Canadian Diocese, requested the Holy Assembly to assign additional Bishops as administrative aides

in the Diocese (PX 72, R. 3048, A. 1278-1279; PX 73, R. 3048, A. 1279-1281; PX 74, R. 2755, A. 1281-1282; PX 84I, R. 3143, A. 1353-1355, 240-42). He proposed that the Mother Church reorganize itself to adopt the "metropolitan" system permitting several assistant bishops to serve under a metropolitan. The metropolitan system was an alternative to two other reorganization proposals under consideration by the Holy Assembly: the reorganization of the American/Canadian Diocese into several dioceses or the assignment of vicar bishops to perform part of the Bishop's duties in the United States and Canada. (PX 57, R. 2996-97, A. 1115-1118; PX 58, R. 2996-97, A. 1118-1120; PX 84I, R. 3143, A. 1353-1355, DX 141; PX 116, R. 2542).

On June 29, 1962, the Holy Assembly appointed a delegation to study these reorganization proposals. (A. 187; PX 73, R. 3048, A. 1279-81). This delegation traveled widely throughout the United States, visited parishes, and discussed these reorganization proposals with Dionisije and others. The delegation's report recommended the assignment of vicar bishops to the United States and Canada. (A. 187-90, PX 195A, A. 1482-1535).

On September 25, 1962, Dionisije submitted his annual report on the American/Canadian Diocese to the Holy Assembly. In that report, he announced that for administrative purposes, he had divided the Diocese into four episcopal districts. (PX 57, R. 2996-97, A. 1116).

In its afternoon session on May 10, 1963, the Holy Assembly, recognizing the growth of the Church in the United States and Canada, adopted the alternative of reorganizing the American/Canadian Diocese into three Dioceses. The Holy Assembly appointed the suspended Dionisije as Bishop of the Midwestern American Diocese with his See remaining at Libertyville, Illinois. (A. 167-68, PX 4, R. 2931-33, A. 908-910).

The boundaries of the three dioceses established by this reorganization coincided generally with the boundaries of the four Episcopal Districts previously created by Dionisije.* The Holy Assembly left the administrative details of fixing exact boundaries and of resolving other organizational matters to the officials of the American/Canadian Diocese (PX 4, A. 2931-33, A. 908-910).**

Applicable Church Regulations Governing the Diocesan Reorganization

a. Respondents' Arguments

In support of their contention that the reorganization of the American-Canadian Diocese into three new dioceses was contrary to Church law, Respondents point only to two constitutional provisions. They attach significance to the fact that the Mother Church Constitution lists in separate Articles the Dioceses within and without Yugoslavia, and they rely upon the language of Article 15 of that Constitution, which provides (PX 68, R. 3031, A. 1143):

> "In addition to already mentioned Dioceses [within Yugoslavia] in the previous Article, under the jurisdiction of the Serbian Orthodox Church in spiritual and hierarchical aspect, also belong the following Dioceses outside the country:
>
> "1. The Serbian Orthodox Church in the United States of America and Canada, with its seat in Chicago, or in the Monastery of St. Sava, in Libertyville, Illinois;

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* The Eastern and Canadian Episcopal Districts were combined into a single diocese.

** In response to questions submitted to it by a lawyer-follower of Dionisije at the behest of Bishop Firmilian, the Holy Synod advised Firmilian on October 18, 1963 (PX 128, R. 3157, A. 1446):

> ". . . [t]hat all of the rights of the former American-Canadian Diocese, as they relate to the autonomy in the administrative sense, remain unchanged. The only exception is the formation of three Dioceses. . . ."

"2. Serbian Orthodox Diocese of Budim . . . ;

"3. Parts of the Vrshatz and Temisvar Diocese outside the borders of Yugoslavia . . . ;

"4. The Czech-Moravian in Orthodox Diocese in Czechoslovakia;

"5. The Serbian Orthodox Vicariate of Skadar with its seat at Skadar (Skutari);

"6. The Serbian Orthodox Churches, Church congregations, and parishes outside the borders of Yugoslavia (Churches in the Diaspora).

"Questions of an organizational material, and of other matters which emanate from the former relations with the Diocese of Budim . . . and parts of the Diocese of Temisvar . . . and Vrshatz . . ., as component parts of the former Metropolitanate of Karlovci, will be decided by the Holy Bishops' Assembly in accordance with the need in agreement with the Patriarchal Executive Committee, and with the concordance with other competent factors."

Respondents read that provision with Article 3 of the Diocesan Constitution (PX 30, R. 2949, A. 1021), which provides:

> "The jurisdiction of the . . . Diocese . . . includes the entire political territory of the United States of America and Canada, which as such by its geographic location enjoys full administrative freedom and accordingly, it can independently regulate and rule the activities of its Church, school, and other Diocesan institutions and all funds and beneficiencies, through its organs, but in accordance with the laws of this Constitution and in agreement with the laws of the United States of America and Canada."

In substance, Respondents argue that the "full administrative freedom" mentioned in Article 3 of the Diocesan Constitution together with the description in that Article of the Diocesan boundaries, guarantees those boundaries against any change by the Mother Church. Claiming that

a Diocesan reorganization is "an administrative matter," Respondents contend that any reorganization is reserved to the Diocese under Article 3 of the Diocesan Constitution and Article 15 of the Mother Church Constitution. They emphasize the fact that Article 14 of the Mother Church Constitution states that the dioceses within Yugoslavia are under the Mother Church's jurisdiction in "spiritual, hierarchical and administrative aspect," but that Article 15 states only that the dioceses outside Yugoslavia are under that jurisdiction "in spiritual and hierarchical aspect."

These arguments lack merit. The two provisions upon which Respondents rely cannot be read in isolation. An examination of the entire Mother Church and Diocesan Constitutions demonstrates that the Mother Church had authority to reorganize the American/Canadian Diocese.

b. Applicable Provisions of the Mother Church Constitution

Despite Respondents' labored argument to the contrary, the Mother Church Constitution is quite unambiguous concerning the authority of the Holy Assembly over the reorganization of its Dioceses.

As Article 16 (PX 68, R. 3031, A. 1143) of the Mother Church Constitution expressly provides:

> "Decisions of establishing, naming, liquidating, reorganizing, and the seat of the dioceses, and the establishing or eliminating of position of vicar bishops, is decided upon by the Holy Council of Bishops [i.e., Holy Assembly], in agreement with the Patriarchal Council."

A Diocese is no more than an "administrative" division of the Mother Church (PX 68, R. 3031, Article 12, A. 1141). While it is a legal "person" within the Church (Article 5, PX 68, R. 3031, A. 1138), like any other division of the

Church it is subject to the "spiritual, disciplinary, and legal authority" of the Mother Church hierarchy (Article 8, PX 68, R. 3031, A. 1139).*

Articles 14 and 15 of the Mother Church Constitution list the Dioceses (PX 68, R. 3031, A. 1142-43). Article 14 sets out the Dioceses geographically located in Yugoslavia. Article 15 lists the Dioceses geographically located outside of Yugoslavia. Under Respondents' theory, all of these Dioceses outside Yugoslavia have guaranteed boundaries, since these Dioceses are not also listed in Article 14. However, neither Article suggests that any Diocese, once listed, is thereafter immutable. In fact, the contrary is true.

Nothing in the language of Article 16 suggests a distinction between the Dioceses named in Article 14 and those named in Article 15 as to the Holy Assembly's power of reorganization. The placement of Article 16—following both of the Diocese-naming Articles rather than only that which names Dioceses within Yugoslavia—refutes such a distinction; and the Mother Church so construed Article 16, finding that Article 16 applied to *all* dioceses enumerated in both Articles 14 and 15. Indeed, as Bishop Visarion testified, the Holy Assembly's action in reorganizing the Diocese simply amended Article 15 (A. 236-37).

Article 16 (together with the rest of the Mother Church Constitution) was adopted in 1931 by the Holy Assembly

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* Indeed, the Mother Church Constitution contains a number of detailed regulations pertaining to the organization of Diocesan bodies. For example, Articles 102-114 (PX 68, R. 3031, A. 1176-82) of the Mother Church Constitution provide for the appointment, removal, and functions of Diocesan Bishops. Similarly, Articles 115-135 (PX 68, R. 3031, A. 1182-87) regulate Diocesan Ecclesiastical Courts; Articles 136-143 (PX 68, R. 3031, A. 1187-90) Diocesan Councils; Articles 144-158 (PX 68, R. 3031, A. 1190-96) Diocesan Executive Committees; and Articles 159-213 (PX 68, R. 3031, A. 1196-1221) lesser Diocesan organs, including Church congregations.

three years after the Holy Assembly had approved the Diocesan Constitution. However, Article 16 completely fails to include any provision for the asserted immutability of the boundaries of the American/Canadian Diocese. This fact demonstrates that the Mother Church intended no such immutability to result from its approval of the Diocesan Constitution. There is no evidence that anyone ever publicly claimed prior to May 10, 1963 that the Diocesan boundaries were immutable. Indeed, when the American/Canadian Diocese was created in 1921, neither the Diocesan nor Mother Church Constitutions were even in existence. Thus there is no indication whatever that the American/Canadian Diocese, when created, was to be treated any differently from any of the other dioceses of the Mother Church.

The conclusion that Article 16 applies to the dioceses contained in Article 15 is further evidenced by Article 57 (PX 68, R. 3031, A. 1156) and Article 64 (PX 68, R. 3031, A. 1158) of the Mother Church Constitution. Article 57 provides that the Holy Assembly, "as the highest hierarchical body, is legislative authority in matters of . . . internal organization of the Church." Article 64 provides:

> "All of the decisions of the Holy Assembly of Bishops and of the Holy Synod of Bishops of canonical and Church nature, in regard to faith, officiation, Church order and internal organization of the Church, are valid and final."

The conclusion that the Mother Church has authority to reorganize all dioceses is supported by the testimony. Bishop Visarion and the Very Reverend Mladenovich testified that the highest judicatory of the Mother Church was authorized to reorganize the American/Canadian Diocese pursuant to the hierarchical powers enumerated in its own Constitution. (A. 202-204, A. 679, A. 142) Bishop Visarion further testified that the consent of no other party, including the diocesan bishop, was required for the

Holy Assembly's action to be final (A. 208-09). Father Meyendorff confirmed that the Holy Assembly is the source of legal authority for any reorganization (A. 365) and expressed the expert opinion that the reorganization of the American/Canadian Diocese was valid under both the Mother Church and Diocesan Constitutions. (A. 366).

c. Applicable Provisions of the Diocesan Constitution

Respondents argue that any reorganization is reserved to the Diocese under Article 3, based upon the language of "full administrative freedom" of Article 3. That argument misses the mark.

The Constitutions of the Mother Church and of its diocese in this country demonstrate that the Mother Church has a tripartite function: spiritual, hierarchical and administrative. However, the fact that its diocese in this country has administrative freedom does not, contrary to the Respondents' reasoning, lead to the conclusion that the Mother Church is without the authority to disband, divide, expand or otherwise reorganize that diocese. As Bishop Visarion, Bishop Ilicich, and the Very Reverend Mladenovich all testified, the reorganization of the diocese in this country was a *hierarchical*, not an *administrative*, function. (A. 202-204, 169, 142). That reorganization involves the basic governmental structure of a constituent and subordinate unit of the Mother Church. The fact that, for purposes of geographical convenience, the American/Canadian Diocese was delegated certain duties by the Mother Church in running its daily affairs does not alter the conclusion that the reorganization of that Diocese was a hierarchical function.

The Diocesan Constitution is replete with provisions demonstrating that the Diocese is subordinate to the hierar-

chical Mother Church. Article 1 of the Diocesan Constitution (PX 30, R. 2949, A. 1021) flatly states that the Diocese

> "is considered ecclesiastically-judicially as an organic part of the Serbian Patriarchate . . . and enjoys all the benefits which originate therefrom."

Article 2 of the Diocesan Constitution (PX 30, R. 2949, A. 1021), adds, in pertinent part, that

> "All statutes and rules which regulate the ecclesiastical-canonical authority and position of the Serbian Orthodox Church . . . are also compulsory for the . . . Diocese . . ."

Those two provisions clearly, and properly, subordinate the Diocese to the authority of the Mother Church and to the Mother Church Constitution.

The remainder of the Diocesan Constitution reinforces the authority of the Mother Church. Article 12 of the Diocesan Constitution (PX 30, R. 2949, A. 1025-26) provides that the Diocesan Bishop (its highest authority) may not "make any changes or innovations in the established order and work of the Church" without the prior approval of the Patriarch of the Mother Church, and adds:

> "Acordingly, the Diocesan Bishops shall submit to the Serbian Patriarch, for review, all regulations which may be issued by any Diocesan authority, which shall if they touch upon the sphere of internal Church administration, be subject to the approval of the Holy . . . Synod, as the highest executive Church authority."

Article 23(8) of the Diocesan Constitution (PX 30, R. 2949, A. 1029) limits the authority of the Diocesan Sabor (its "main legislative and controlling body" as stated in Article 15) to amend the Diocesan Constitution by requiring that all proposed amendments be approved by the Mother Church before they may take effect. Article 53 of the Diocesan Constitution (PX 30, R. 2949, A. 1039-40) subjects decisions by the Diocesan Ecclesiastical Court to approval

by the Holy Synod of the Mother Church (decisions which include, among others, the organization, dissolution, and reorganization of parishes and congregations within the Diocese: Article 55(7)) (PX 30, R. 2949, A. 1040-41).

The Mother Church properly and reasonably construed these constitutional provisions to warrant the reorganization of the American/Canadian Diocese. When Article 15 of the Mother Church Constitution and Article 3 of the Diocesan Constitution are read together with the other pertinent Articles of these Constitutions, the conclusion is plain that the reorganization of the American/Canadian Diocese— an action involving the basic governmental structure of a constituent and subordinate unit of the Mother Church—was a proper hierarchical function.

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In the Supreme Court of the United States

OCTOBER TERM, 1975

NO. 75-292

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA,
a Religious Body, et al.,
Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,
Respondents.

RESPONDENT'S BRIEF

QUESTIONS PRESENTED

1. Should a Civil Court enforce a church decision which, in disregard of church constitutional provisions, liquidates an autonomous diocese of the church and effects a seizure of its property?

2. Is it not error for a Civil Court to purport to make a finding, after a dissolution of an independent diocese, that "religious unanimity" exists between the various adherents of a faith or should this be left solely to the individual members of the diocese?

3. Should a Civil Court enforce the disciplinary judgment of a church made in violation of the church penal code and constitution?

4. Should a Civil Court enforce a church disciplinary judgment removing a cleric without notice or opportunity to confront his accusers or participate in a hearing all in contravention of codified church procedure?

STATEMENT OF THE CASE

The American-Canadian Diocese has the only Diocesan Constitution in the Serbian Orthodox Church which guarantees "full administrative freedom" for the Diocese which is governed by an elected Diocesan Assembly and Council. The properties of the American-Canadian Diocese must be used only for the purposes designated by the Constitution of the Diocese. (A. 1806). The Constitution may be amended only by the Diocese, subject to the approval of Belgrade. (A. 1806-7).

The Serbian Orthodox Church ("Belgrade"), one of fourteen national Orthodox churches, first affiliated with the American-Canadian Diocese after World War I and approved the Diocesan Constitution with its reservation of self government in 1928. (A. 1806-7). The Diocese, prior to World War I, was self governing when it was affiliated with the Russian Orthodox Church. (A. 1803-4).

The Dissolution of the American-Canadian Diocese

On May 10, 1963, Belgrade unilaterally amended the Serbian Church Constitution so as to dissolve the American-Canadian Diocese by replacing it with three new dioceses. This litigation began, in July, 1963, when Petitioner Firmilian, the alleged administrator appointed by Belgrade to effectuate the dissolution, attempted to seize the bank accounts and substantial real property of the American-Canadian Diocese including substantial parcels located in California, Illinois and Pennsylvania.[1] Each of the Courts below found, under the express provisions of

[1] The STATEMENT OF THE CASE by Petitioners contains many errors and does not set forth the facts as found by the Illinois Supreme Court. We append as Appendix A a complete STATEMENT OF THE FACTS with record and appendix references which support the findings of fact made by the Illinois Supreme Court.

the Serbian Church Constitution and the Diocesan Constitution, that Belgrade, in dissolving the Diocese, had acted without authority and in violation of the rights reserved by the Diocese in its Constitution.

In August, 1963, the American-Canadian Diocesan Assembly passed a resolution refusing to recognize the division of the Diocese and providing three months for Belgrade to rescind. Belgrade refused to reconsider. In November, 1963, the American-Canadian Assembly enacted constitutional provisions providing for amendment of the Diocesan Constitution without approval by Belgrade. (A. 1813).

The Proceedings Against Bishop Dionisije

In connection with the dissolution of the American-Canadian Diocese, Belgrade transferred its long time Bishop, Dionisije, and instituted penal proceedings against him, allegedly suspending him until his trial on unstated charges. Bishop Dionisije refused to accept the illegal division of the Diocese. He also refused to accept his suspension because he was not given a prior hearing as required by the Belgrade Constitution and the Church Penal Code. The Diocesan Council of the American-Canadian Diocese petitioned the Holy Synod (a Bishop's trial court) to send a commission to investigate the charges against Bishop Dionisije as soon as possible. (A. 1811).

The Holy Synod appointed a commission to investigate the charges on June 13, 1963, and the commission, without prior investigation of the charges, met with Bishop Dionisije on July 5. The Bishop requested written copies of the charges against him. The commission, which had the written charges in its possession, refused to show them to the Bishop. The day following the half-hour meeting, the commission issued a public proclamation that Bishop Dioni-

sije was guilty of violations meriting stripping of his episcopal rank and his excommunication from the Church. (A. 1812).

On July 27, 1963, the Holy Assembly of Bishops, without notice to Bishop Dionisije, voted to depose him and replaced him with Firmilian. (A. 1812-3).

In September, 1963, Belgrade appointed a prosecutor to draft an indictment against Dionisije. Dionisije again requested copies of "Enclosures" (the written complaints and letters of his accusers) referred to in the indictment and also requested a six month extension to answer because of the indictment's length and his incapacity due to a recent automobile accident. Belgrade refused to provide the "Enclosures", but granted a thirty day extension. In January, 1964, Dionisije wrote that he could not respond without the "enclosures", that the Synod and the Assembly of Bishops were violating the Church Penal Code and Constitution, that no investigation had been made, and that he could not bring witnesses 6000 miles to Belgrade for trial. (It should be noted that Bishop Dionisije had not traveled to Yugoslavia after World War II because he had been declared an enemy of the State by the Yugoslavian government. (R. 8668, A. 605; R. 9116-9, A. 642-3))

On March 5, 1964, without notice to Dionisije, the indictment was verbally amended to include alleged offenses committed since the indictment was drafted. The Assembly of Bishops considered the amended indictment, found Bishop Dionisije guilty of all charges, removed his Bishop's rank, and returned him to layman status. Among those who voted on Biship Dionisije's guilt were Bishops who had been members of the investigating commission and the Prosecutor who had drafted the indictment. (A. 1814).

The Illinois Supreme Court found that the procedure which resulted in Bishop Dionisije's removal and defrockment was not in accord with the prescribed procedure of the constitution and penal code of the Serbian Orthodox Church and that the finding by the trial court that the removal of Dionisije was not the result of fraud, collusion or arbitrariness was contrary to the manifest weight of the evidence. (A. 1826-7). The Supreme Court found that Dionisije had been suspended, deposed and defrocked by the wrong tribunal, without notice or opportunity to review the charges against him, without an opportunity to make a defense, without an opportunity to confront his accusers and upon an amended indictment that was never submitted to him for response; all in violation of codified procedure.

The Illinois Supreme Court thus refused to permit enforcement of Belgrade's mandate requiring the dissolution of the Diocese, expulsion of Dionisije and distribution of diocesan property without prior consent of the members of the diocese.

SUMMARY OF ARGUMENT

The Courts below, within the limits of permissible review, found the attempted dissolution of the American-Canadian Diocese by Belgrade to be in clear and palpable excess of its very limited powers as set forth in the Constitutions. The Diocese existed independently prior to affiliation with Belgrade. Belgrade has repeatedly recognized the autonomy and independence of the Diocese. The Constitutional provisions are clear and explicit.

Prevented from seizing the Diocese assets by the Diocesan Authorities, Belgrade attempted to accomplish the same result by penal proceedings against Bishop Dionisije.

Under the guise of a temporary administrator, appointed incidental to the penal proceedings, Belgrade sought to deprive the American-Canadian congregations and their members of participation in the future management of the property, and ultimately, to distribute the diocese property to the three newly created dioceses. This was improper.

Moreover, as Belgrade had excised the American-Canadian Diocese from its Constitution and the Diocesan Assembly voted to deprive Belgrade of the right to appoint a Bishop for the Diocese, the Illinois Supreme Court erred in finding that "religious unanimity" exists. This is beyond the scope of a civil court.

The Constitution and Penal Code of the Serbian Orthodox Church provide explicit procedures for disciplinary proceedings against a Bishop. The evidence established that, contrary to these procedures, Dionisije was convicted without notice of the charges or opportunity to defend by the wrong tribunal and denied appeal. Guilt was predetermined. The Court below, thus properly refused to enforce Belgrade's action against Dionisije as the disciplinary proceedings against him were tainted by fraud, collusion or arbitrariness. In so ruling, the civil courts did not consider the guilt or innocence of Dionisije or any religious question.

ARGUMENT

I.

THE ATTEMPTED DISSOLUTION OF THE AMERICAN-CANADIAN DIOCESE AND DISTRIBUTION OF ITS ASSETS WAS FORBIDDEN BY THE INDEPENDENCE AND AUTONOMY OF THE DIOCESE.

Each Court below has held that Belgrade's attempt to dissolve the Diocese and to distribute its assets was an act contrary to the Diocesan and the Belgrade Constitutions. The examination of church constitutions to resolve such property disputes has been approved by this Court. *Maryland and Virginia Eldership of Church of God* v. *Church of God,* 396 U.S. 367, 90 S.Ct. 499 (1970).

The American-Canadian Diocese had an independent existence before its 1921 affiliation with the Serbian Orthodox Church. This administrative and executive independence was recognized by Belgrade at the time of the adoption of the American-Canadian Constitution. Under the terms of that Constitution, Belgrade had no right to abrogate the American-Canadian Diocesan Constitution, dissolve the Diocese and distribute its property to three newly created dioceses, although, Belgrade had the right to disassociate itself from the American-Canadian Diocese, if it so chose.

The Illinois Supreme Court detailed the early historical development of the American-Canadian Diocese and the unique relationship between it and the Serbian Church in Belgrade. (A. 1803-1807) The Illinois Supreme Court found that the American-Canadian Diocese "manifested a clear intention to retain independence and autonomy in its

administrative affairs. . . ." (A. 1829) The declarations by Belgrade over the years fully support these findings:

1) In 1928, Belgrade approved the American-Canadian constitution confirming the intent of the parties that the constitution serve as the "organizational regulation" for the "autonomous organization" of the Diocese. (DX 51, 1058)[1]

2) In 1945, Belgrade published this statement: "Furthermore, the American-Serbian Orthodox Diocese which is in organic ties with the Serbian Patriarchate, has its separate constitution which in reference to its external independent activities is responsible and governed only in accordance with the laws of the United States of America." (DX 220, A. 1697)

3) In 1963, Belgrade stated: "I. That all of the rights of the former American-Canadian Diocese as they relate to the autonomy, in the administrative sense, remain unchanged. The only exception is the forming of three diocese and II. That the Constitution of the former American-Canadian Diocese remains the same and that the dioceses in America and Canada will not, in an administrative sense [the management (or direction) of the properties be managed (or directed) in the same manner as those in Yugoslavia]." (PX 128, A. 1446)

Petitioners, in arguing that control resides in Belgrade, rely upon the inapplicable provisions of the Belgrade Constitution governing dioceses in Yugoslavia, which provisions are separate and distinct from that concerning the

[1] Record citations where Exhibits were admitted are in Appendix B.

American-Canadian Diocese, but ignore the clear non-religious provisions of the American-Canadian Diocese Constitution reserving exclusive administrative and executive authority, to-wit:

1) Article 1 provides that the relationship with Belgrade is limited to "ecclesiastically-judicially" affairs. (A. 1021)

2) Article 3 provides that the Diocese "enjoys full administrative freedom and accordingly, it can independently regulate and rule the activities of its Church, school and other diocesan institutions and all funds and beneficences, through its organs, but in accordance with the laws of this Constitution and in agreement with the laws of the United States of America and Canada." (A. 1021)

3) Article 22 states "The Diocesan Assembly (Sabor) upon being duly constituted, performs the following . . . 7) controls the assets of the diocese, the entire past year's work of the Diocesan Council and its organs; 8) decides on changes and amendments to the Constitution with the approval of the Holy Bishop's Assembly of the Serbian Patriarchate." (A. 1029)

4) Articles 146, 147, 149 and 150 provide that the Diocese owns its property separate and apart from the property owned by the local congregations. The Diocese has no rights in the property of the congregations and "the above mentioned property and its assets are to serve exclusively for the purposes designated by the Statutes of this Constitution and cannot be used for any other purpose." Each are to title their individual property in their own names. (A. 1066-7)

Articles 5, 8, 15 and 24 establish the Diocesan Assembly and Diocesan Council as the independent and controlling legislative and executive authorities for the Diocese. Article 71 gives the Diocesan Council final authority over membership.[2]

The administrative and executive independence and autonomy of the American-Canadian Diocese is manifestly clear. The Illinois Supreme Court, as well as every court which has ruled upon this case, read Articles 12, 14, and 15 of the Serbian Church Constitution and concluded that while the dioceses in Yugoslavia are subject to the Church in a "hierarchical and administrative aspect" the American-Canadian Diocese, prior to the amendment of May 10, 1963, was under the jurisdiction of the Serbian Orthodox Church "only in spiritual and hierarchical concerns". (A. 1830-31)

Only the Church National Assembly (Sabor) composed of members from all of the congregations in the Diocese, could initiate and pass amendments to the Diocesan Constitution. Belgrade's interest was limited to approval or rejection of such amendments.

Congregations and dues paying members have a right to control all Diocesan property in America and Canada through representation in the one Diocesan Church National Assembly. Such right is guaranteed by the Constitution. Belgrade's amendment deprives the congregations of this right to participate in the control of the total property by limiting the participation of any congrega-

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[2] Petitioners' quote of Article 2 at Page 31-A deletes the reference to the laws of the Kingdom of Yugoslavia which granted the Church quasi-legal and governmental functions such as jurisdiction over divorces, salaries for clergy, and National Church Status. The Church's governmental ties terminated with World War II.

tion to representation in one of the three new regional dioceses. A California Congregation, which currently has a right to representation in the control of the Pennsylvania and Illinois property, is deprived of that right under the illegal Belgrade amendment.

The Courts below properly found the dissolution of the American-Canadian Diocese to be "in clear and palpable excess" of Belgrade's authority.

II.

BELGRADE SEEKS TO ACCOMPLISH, THROUGH ITS PENAL POWERS, A REORGANIZATION AND DISTRIBUTION OF ASSETS UNATTAINABLE UNDER ITS LEGISLATIVE-EXECUTIVE POWERS.

The Belgrade Church lacked either the administrative or executive authority to dissolve the American-Canadian Diocese and distribute its assets to the three newly created dioceses. The attempt was opposed by the duly constituted boards and authorities of the American-Canadian Diocese from the outset. Belgrade sought to accomplish the illegal dissolution and distribution of assets by perverting its penal authority.

The three newly appointed administrators, including Firmilian, reported to the Synod, on June 10th, that at the June 6th meeting of the Diocesan Plenum almost all of the members of the Diocesan Counsel and the majority of all congregations in the American-Canadian Diocese believed that the decision was "made against the constitution of our Diocese and, therefore, cannot be accepted". (DX 198, A. 1666-7)

On June 9, 1963 the Diocesan Plenum advised the Holy Synod that it could neither accept or reject the division of the American-Canadian Diocese but intended to refer

the matter to the Church National Assembly called for August 6, 1963. Belgrade knew that the majority of the congregations to attend the August Church National Assembly opposed the division of the Diocese and that it had less than two months to implement its decision. (PX 15, A. 929)

The significance of the three administrators' June 10th report to Belgrade forwarding their opinion that "it is indispensable to rush trial against Bishop Dionisije and make a definite decision in connection with his schismatic actions and other wrongdoings . . ." and ". . . to publish at least proving material about his guilt, if not the final decision" before the August 6 Sabor meeting is now brought sharply into focus. (DX 198, A. 1671-2) In order to carry out the division and distribution it was necessary to discredit Bishop Dionisije before the August 6 Sabor meeting.

Pursuant to the direction of the three administrators, the Synod, on June 13, 1963, appointed a commission to investigate the charges against Bishop Dionisije. The commission was given oral orders to "do what was necessary". These investigators, under the clear provisions of the Belgrade Constitution, Article 219, should have been appointed before the suspension of Bishop Dionisije. Without reading the charges or conducting any investigation or hearing any witnesses they promptly scheduled a "hearing" of Bishop Dionisije on July 5, 1963. The hearing did not last a half an hour and there was no discussion of the charges against Bishop Dionisije. All they did was demand that he recognize the dissolution and division of the Diocese.

The following day, July 6, 1963, the investigating commission issued the requested proclamation, Plaintiff's

Exhibit 17, that Bishop Dionisije was guilty of offenses meriting the stripping of his Episcopal rank and excommunication from the church community. All clergymen, congregations and faithful were called upon to not recognize Bishop Dionisije, but to recognize the three administrators. (A. 982; A. 1812)

On July 18, 1963, Firmilian attempted to seize the bank accounts of the American-Canadian Diocese in the Bank of Libertyville. (A. 7) The Diocese filed suit to restrain the attempted takeover of the assets on July 26, 1963. (A. 1)

On July 27, 1963, a special session of the Holy Bishops Assembly was called which purported to depose Bishop Dionisije from his position as bishop of the American-Canadian Diocese. In their explanation to the American Serbs, as requested by the administrators, the Assembly explained that they were forced to depose him because of his disobedience to the division decision and "his many canonical offenses." (PX 55b, A. 1111) The canonical offenses were the personal charges and complaints which had not been given to Bishop Dionisije or investigated by the investigating commission.

At the same meeting Bishop Firmilian was elected bishop of the mid-west Diocese and Gregory elected bishop of the western Diocese.

In August, 1963, the Church National Assembly of the American-Canadian Diocese met in session and requested Belgrade to reconsider its dissolution and distribution of the property. The plea being rejected, the November, 1963 session of the Diocesan Assembly declared that it would no longer accept ecclesiastical-hierarchial decisions from Belgrade. Thereafter, Dionisije, having received the indictment, again requested copies of the charges but

was refused. In March, 1964, without notice to Bishop Dionisije he was tried and defrocked upon an Amended Indictment.

The Property Grab By Belgrade's Administrator

What is it that Belgrade seeks to administer? Their bishops and the secretary of the church have testified that the American-Canadian Diocese has been amended out of the Belgrade Constitution, and as such, no longer exists. No further bishop is ever to be elected by the Holy Assembly to the American-Canadian Diocese. (R. 7643, A. 537)

What remains to be done with the American-Canadian Diocese? Bishop Nikanor testified:

> "The American-Canadian Diocese has not been completely liquidated. It remains for the Episcopal Bishop's counsel to arrange the internal affairs and then that will be the end of the American-Canadian Diocese. The assets there disposed of will then be distributed to the other three dioceses which would include giving Shadeland to the Eastern Diocese, Jackson to the Western Diocese and the Monastery in Libertyville to the Midwest American Diocese." (R. 1276-7, A. 182)

Bishop Visarion testified that the "reorganization" of the Diocese affected the ownership of the assets in that certain assets will be transferred to each of the three new Dioceses. (R. 1456, A. 212) In DX 198 Firmilian complained that he could not obtain control of the Libertyville property for the Midwest Diocese (A. 1667) and requested that the Shadeland Pennsylvania property be given to the eastern Diocese. (A. 1672)

What does the real party-in-interest, Firmilian, seek by these proceedings? His testimony tells you:

1. "If the court sees fit to grant me as administrator *control of the assets and properties* of the Serbian Eastern Orthodox Diocese of the United States of America and Canada . . ." (R. 7641, A. 536) (Emphasis supplied)

2. "If this *property* were turned over to me . . ." (R. 7825, A. 545-6) (Emphasis supplied)

Petitioner's attorneys maintain that this dispute is not a church property dispute. The evidence contradicts them because Firmilian seeks control of the assets of the Respondent, American-Canadian Diocese.

What are Firmilian's duties as alleged temporary administrator of the American-Canadian Diocese? He answered this question several times during his testimony:

1. "My duties are to put in effect all the decisions of the Holy Assembly of Bishops." (R. 7631, A. 536)

2. "My duty was to call the Church National Assembly, preside over it, read the decisions of the Holy Assembly of Bishops and Synod, and make provisions for the amendments in the constitution, send it to the Holy Assembly of Bishops for final approval." (R. 7632, A. 536)

3. "Then we shall call Sabor, Church National Assembly; three bishops together with Church National Assembly would make necessary amendments, send it to the Holy Assembly of Bishops for approval, and that's all." (R. 7637-8, A. 536)

4. It will be his duty to see that the decision of May 10, 1963 reorganizing or dividing the Diocese into three new Dioceses is approved by the Church National Assembly. (R. 7644-6, A. 537)

Who will attend the Firmilian Sabors? Only those faithful and clergymen who recognize the dissolution-divi-

sion of the American-Canadian Diocese may participate in the meeting or use the property. Firmilian so testified:

1. "Dues paying members of the congregation of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, who continued in the various parishes to pay their dues until the present time, are no longer members if they have not elected to follow the decision of May 10, 1963 recognizing the division of the diocese into three dioceses, with Bishops Gregory, Sava, and myself as Bishops. If this property were turned over to me, these people would have the right to use it only if they returned to the church and recognized the decision of May 10. Some of the priests who have elected not to obey the decisions of May 10, 1963 have been defrocked." (R. 7825-6, A. 545-6)

2. Members of the church who did not recognize the decisions of the Assembly left the church by their own action. (R. 7979, A. 548)

3. "Anyone who does not recognize the highest church authorities is no longer member of the church." (R. 7652, A. 537-8)

4. Any priest who was willing to accept the decision concerning the suspension of Bishop Dionisije but refused to accept the decision to divide the Diocese into three parts would not be permitted to participate in any Sabor held by the three new bishops. (R. 7661, A. 538)

5. Firmilian has suspended or defrocked some priests who have either remained loyal to Bishop Dionisije or have not recognized the division of the Diocese. (A. 546)

Bishop Firmilian's only claim for relief in this case is his claimed right to be "temporary administrator" of the American-Canadian Diocese pending disposition of the

penal proceedings. This right as temporary administrator arises as an incident of the penal proceedings.

The evidence demonstrates that instead of administering the American-Canadian Diocese and its assets it is his avowed duty and obligation to liquidate and distribute its assets to the other two petitioner bishops for use by the three new dioceses. The conduct of Firmilian, in collusion with Belgrade is part of a scheme to obtain control of the Diocesan property under the guise of penal proceedings in order to carry out the illegal dissolution-division decision of May 10, 1963. This is fraud.

III.

THE ILLINOIS SUPREME COURT DEPARTED FROM NEUTRAL PRINCIPLES OF LAW BY FINDING THAT THE EXISTENCE OF AN ALLEGED "RELIGIOUS UNANIMITY" PREVENTED THE ACTS OF THE PARTIES FROM BEING GIVEN THEIR LAWFUL EFFECT.

Prior to May 10, 1963, Article 15 of the Belgrade Church Constitution was the only reference to the American-Canadian Diocese found anyplace in that Constitution. It established a spiritual-hierarchical relationship which was sacremental in nature.

On May 10, 1963 the Holy Assembly of Bishops amended their own Constitution deleting the American Canadian Diocese from Article 15a and substituting in its place three new dioceses. (R. 497, A. 138; R. 1684-5, A. 237; R. 1693, A. 238; R. 807, A. 157; A. 1811)

Belgrade's right to discontinue the "spiritual-hierarchical" relationship with the American-Canadian Diocese by amending Aritcle 15 of the Church Constitution is unchallenged because no provision of either the Church or Dio-

cesan Constitutions deny Belgrade the option of revoking its affiliation with the Diocese. The existence of the American-Canadian Diocese is not dependent upon affiliation with Belgrade. The amendment of Article 15a repealed the spiritual-hierarchical relationship theretofore existent between the American-Canadian Diocese and the Belgrade Church. Their right to create three, or any number of new dioceses, is unchallenged so long as the newly created dioceses do not claim the name or property of the American-Canadian Diocese.[1]

The American-Canadian Diocese, after its removal from the Belgrade Constitution in May, held a Church National Sabor in August and November, 1963. At the November Sabor the delegates from the congregations recognized the act of Belgrade as an effort to dissolve the relationship which previously existed. Consequently, a Resolution was passed declaring their freedom from the spiritual-hierarchical relationship with the Belgrade Church. Since then, the American-Canadian Diocese has existed with its own Bishops, clergy, property and congregations.

Since May, 1963, the three new dioceses have operated in a spiritual-hierarchical and administrative relationship with Belgrade. They have their own Bishops, clergy, property and congregations. Throughout this time they have claimed to be successors to the American-Canadian Diocese and have claimed through this litigation the bank accounts and the property of the American-Canadian Diocese.

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[1] A somewhat similar situation was presented in *Romanian Orthodox Missionary Episcopate* v. *Trutza*, 205 F.2d 107 (6th Cir. 1953) which recognized the right of an Orthodox Diocese to amend its constitution.

The Illinois Supreme Court, in its otherwise well founded opinion, departed from neutral principles of law and refused to recognize the legal effect of the amendment of May 10, 1963 because the Court found that there existed a "basic religious unanimity" wherein people of common faith joined together to further the practice of their faith. (A. 1832-33)

This finding was the basis for the Court's declaration that the American-Canadian Diocese and the Belgrade Church remained bound together in a spiritual-hierarchical relationship. The First Amendment prohibits a civil court from using the existence or non-existence of "a basic religious unanimity" as the basis of any civil court declaration, action or decision. *Presbyterian Church* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church*. 393 U.S. 440 (1969).

The actions of Belgrade and the American-Canadian Diocese have severed all ties between them. Membership in the respective groups is for the conscience of each individual member. The civil courts should not declare a religious unanimity.

IV.

THE PROCEEDINGS AGAINST BISHOP DIONISIJE WERE NOT CARRIED OUT IN ACCORD WITH EITHER THE PENAL CODE OR THE CONSTITUTION OF THE SERBIAN ORTHODOX CHURCH, IN VIOLATION OF BISHOP DIONISIJE'S RIGHTS AS A MEMBER OF A VOLUNTARY RELIGIOUS ASSOCIATION.

A. Civil Courts Will Enforce A Member's Rights to Fundamental Fairness.

The consideration by the Court below of the defrockment of Dionisije did not involve interference with church

doctrinal issues. The Court merely sought to determine whether Dionisije had been tried in accord with procedures hitherto codified by Belgrade. Thus, insofar as Dionisije is concerned, this case concerns whether he, as a member of a voluntary religious association, was accorded those due process rights guaranteed under the constitutions, penal code and rules of the organization. If he was not, his defrockment should not be enforced by the Civil Courts.

This Court and those of the various states have always recognized that review is "appropriate" to insure that decisions of church tribunals are not the result of "fraud, collusion, or arbitrariness." *Gonzalez* v. *The Roman Catholic Archbishop of Manila,* 280 U.S. 1, 50 S. Ct. 5 (1929); *Presbyterian Church* v. *The Mary Elizabeth Blue Hull Memorial Church,* 393 U.S. 440, 89 S. Ct. 601, 605 (1969); *Kedroff* v. *St. Nicholas Cathedral of Russia O. Ch.,* 344 U.S. 94, 73 S. Ct. 1443 (1952); *Brundage* v. *Deardorf,* 55 F. 839, 847 (N.D. Ohio 1893); *LeDuc* v. *The Normal Park Presbyterian Church,* 142 F.2d 105 (1944); *Epperson* v. *Myers,* 58 So. 2d 150, 152 (Florida, 1952); *Hendryx* v. *Peoples United Church,* 84 P. 1123 (Wash. 1906); *Turbeville* v. *Morris,* 26 S.E. 2d 821 (1943); *Merryman* v. *Price,* 259 N.E. 2d 883 (Ind. App. 1970); *First Free Will Baptist Church* v. *Franklin,* 4 So. 2d 390 (Sup. Ct. Fla. 1941).

This Court stated in *Kedroff* that freedom to select the clergy "where no improper methods of choice are proved must be said to have Federal Constitutional protection." Circuit Judge Taft in *Brundage* held that a civil court could not accept a decision of the highest judicatory of a church as binding on a civil court where there was an open and avowed defiance of the original compact.

The Court of Appeals for the Seventh Circuit in *LeDuc* recognized the right of a church pastor to a full and fair

judicial hearing and stated that the decisions of an ecclesiastical tribunal would be recognized "unless some civil right has been denied."

In *Epperson* the Court recognized the rule, stating:

> "These cases support the rule contended for by the Appellant but they also approve the exception when there is a showing of fraud, collusion or arbitrary conduct on the part of the church authorities, the courts will interfere to protect the rights of those imposed on."

The appropriateness of such minimal review is recognized by the Illinois Courts. In *Schweiker* v. *Husser,* 147 Ill. 399 (1893) the Court held that decisions of the highest church body would be recognized unless they were "manifestly violative of the constitution or laws of the Association, or in clear and palpable excess of its own jurisdiction . . ." An earlier case, *Chase* v. *Cheney,* 58 Ill. 509 (1871) contains a special concurring opinion in which the justices state that if a church tribunal has been organized in defiance of the laws of the Association and is exercising arbitrary power the courts will intervene to protect the clergymen. Moreover, both this court and the Supreme Court of Illinois have held in a variety of contexts that voluntary associations must afford their members certain minimal "due process" procedures prior to taking action which might seriously affect their substantive rights. *Silver* v. *New York Stock Exchange,* 372 U.S. 341, 364, 83 S.Ct. 1246 (1963); *Virgin* v. *The American College of Surgeons,* 42 Ill. App. 2d 352, 192 N.E. 2d 414 (1963); *Werner* v. *International Association of Machinists,* 11 Ill. App. 2d 258, 137 N.E. 2d 100 (1956); *Van Daele* v. *Vinci,* 51 Ill. 2d 389, 282 N.E.2d 728 (1972).

The civil courts have on a number of occasions rejected judicial decisions by churches where church procedures

are ignored or subverted. Thus in *Kaminsky* v. *Hoynak,* 373 Pa. 194, 94 A. 2d 548 (Pa. Sup. Ct., 1953), the removal of a parish priest of the Carpatho-Russian Greek Catholic Orthodox of the Eastern Rite by his bishop was invalidated for failure to follow the procedure established in the constitution of the church. In *Baugh* v. *Thomas,* 56 N.J. 203, 265 A. 2d 675 (N.J. Sup. Ct., 1970) the New Jersey Supreme Court recognized the right of civil courts to invalidate an expulsion in violation of the established procedures of the church. Failure to give notice and an opportunity for a hearing invalidated an expulsion proceeding in *Taylor* v. *Jackson,* 273 F. 345 (Ct. App. D.C. 1921). Other cases include *State* v. *Ellis,* 140 S. 2d 194 (La. App. Ct., 1962). *David* v. *Carter,* 222 S.W. 2d 900 (Tex. Ct. Civ. App. 1949) and *Hendryx* v. *People's United Church,* 84 P. 1123 (Sup. Ct., Wash., 1906).

Petitioners argue, contrary to the well settled principles expressed above, that as the Serbian Orthodox Church is a "hierarchial" church, it is the "supreme interpreter of the internal church constitutional provisions," exempt from any judicial review. Hence, Civil Courts must invoke their judicial powers to enforce Belgrade's decisions.

This is not the law. A court, when requested by a religious body to enforce its mandate, is entitled to determine whether that mandate was exercised in the absence of "fraud, collusion, or arbitrariness." Here, such minimal review of the procedures involved demonstrates that Belgrade, in taking serious action against Dionisije, ignored its constitution and rules and hence is not entitled to obtain enforcement of its judgment in a Civil Court.

The issue presented by the proceedings against Bishop Dionisije is not concerned with the guilt or innocence of

Dionisije, but whether he was afforded those fundamental due process rights guaranteed to him by the Constitution and Penal Code of the Church. The Illinois Supreme Court found that the applicable provisions had not been followed. It did not engage in any review of the evidence concerning his guilt or innocence.

The rules of the church mandated procedures requiring notice to Dionisije and an opportunity to be heard in the protection and enforcement of his rights before a tribunal of competent jurisdiction in orderly proceedings. This was denied him in the following respects:

1. He was tried by a tribunal without competent jurisdiction. (See sub-point B, p. 24).

2. He was proclaimed guilty without investigation or hearing. (See sub-point C, p. 27).

3. He was deposed from the American-Canadian Diocese without trial. (See sub-point D, p. 29).

4. He was denied sufficient information necessary to prepare a defense. (See sub-point E, p. 31 and sub-point H, p. 36).

5. The alleged temporary suspension and transfer were violative of the Penal Code and Constitution. (See sub-point F, p. 33 and sub-point G, p. 35).

B. The Constitution of The Church and The Penal Code Vested Exclusive Jurisdiction of The Trial of Bishop Dionisije in The Holy Bishops' Synod—The Synod Did Not Try Bishop Dionisije.

The Constitution and Penal Code provisions, vested exclusive jurisdiction for the trial of Bishop Dionisije in the Synod, not the Holy Assembly.

1. Article 70 (35) A b (A. 1164) provides that the Holy Synod "Judges: (A) in the first instance: (b) canonical offenses of a Bishop"; (Constitution, PX 68)
2. Article 64 of the Penal Code (A. 1262) provides that "The Ecclesiastical Court which had competence to initiate the Due Process shall retain its competency until the Process is concluded." (PX 69).
3. Article 71 of the Penal Code (A. 1265) requires ". . . the Court shall vote on the transgressions, punishment, decree and judgment."

The foregoing provisions of the Constitution and Penal Code of the Serbian Orthodox Church were totally disregarded and violated in its proceedings against Bishop Dionisije. The Synod never rendered a judgment on Bishop Dionisije's case (R. 797, A. 156, R. 9611, A. 667-8), although it was the proper court.

Everybody involved in this case recognized the Synod as the trial court for Bishop Dionisije.

Bishop Dionisije—(DX 150, A. 1640-3; PX 84S, A. 1356; DX 258, A. 1765-6).

Mladen Mladenovich, General Secretary of the Holy Synod—(R. 686-8, A. 148).

Bishop Vasilije, Church Prosecutor—(R. 9611-3, A. 667-8)

Bishop Visarion, Author of Penal Code and Investigating Commission Member—(R. 1631-2, A. 233-4; R. 9884-9904, A. 683-4).

Holy Assembly of Bishops—(PX 2, A. 902).

Holy Synod—(PX 14, A. 928).

Zivan Stefanovich, Legal Adviser to the Synod—(R. 4634-51, A. 410-12).

As stated by the prosecutor in the indictment:

> *"Authorized the Holy Bishops' Synod*
>
> "I am finding: that the Holy Bishops' Synod of the Serbian Orthodox Church in accordance with Art. 70, P. 35 under b of By-Laws of the Serbian Orthodox Church and Art. 63, Rules and Regulations for The Ecclesiastical Courts in Serbian Orthodox Church, *is authorized to judge in first instance in case of guiltiness of Bishop Dionisije (sic) Milivojevicha.*" (PX 16, Page 1, A. 930.)

The Holy Assembly which purported to try Dionisije is actually a court of review. Article 69 of the Constitution provides that the Holy Assembly "27. Adjudges . . . B In the second and final instance: all matters which the Holy Synod of Bishops judged in the first instance."

The Constitution of the Church clearly and explicitly limits the juridical authority of the Holy Assembly of Bishops to those cases ". . . within the scope of its authority (Article 69, § 28)." (Article 57 of PX 68).

In Bishop Dionisije's case, the Holy Assembly of Bishops should have been the Court of Appeals as provided for by Article 78 of the Penal Code. (PX 68). In those cases which the Holy Assembly of Bishops judges in the first instance, there is no right of appeal. (R. 9737; A. 845). Bishop Dionisije was denied the right of appeal guaranteed to him by the Constitution and the Penal Code.

Article 82 of the Penal Code (PX 69, Page 18) provides that upon Appeal, "The Court of second instance will annul the judgment decree of the Court of the first instance" if the Court of the first instance was "not competent for hearing the case", if "it was not properly and duly constituted" and if "in deliberations disqualified . . . persons participated."

Article 124 of the Constitution explicitly prohibits a member of the Court "who has participated in the investigation of the subject being adjudged" from taking part in the decision and "judging." (PX 68, Page 40).

The two members of the Investigating Commission, Bishops Visarion and Chrysostom, and the prosecutor, Bishop Vasilije, as well as the two bishops who gathered charges in 1962, Metropolitan Damaskin and Bishop Nikanor, participated and signed the judgment. Article 82 of the Penal Code requires the court of second instance to annul this judgment as disqualified persons participated. The command of Article 82 is not discretionary but is imperative.

The loss of his right of appeal prevented Bishop Dionisije from raising the jurisdiction of the body that tried him, the composition of the members of that body, the failure of that body to follow the obligatory procedures and the sufficiency of the evidence against him. The basic law of the church gave him that right but the Assembly denied him that right. The Assembly's disregard of Belgrade's own rules prevents an American civil court from enforcing its tainted judgment.

C. Belgrade Publicly Proclaimed Bishop Dionisije's "Guilt" Without A Hearing Or Investigation Of The Charges.

The Investigating Commission was appointed by the Synod on June 13, 1963, ". . . on the basis of Article 67 and 90 Church Code Procedure, . . . to fulfill necessary hearing of accused and witnesses, as well as to collect proofs and to submit findings . . . to the Holy Bishops' Synod for further procedure." (PX 84 L, A. 1355; R. 1576-7, A. 229; R. 763, A. 154)

The Commission was given oral directives by the Synod and Assembly to "do what was necessary." (R. 1610-1, A. 232; R. 9956; A. 689)

Arrangements were made to meet with Bishop Dionisije on July 5 in Libertyville. This was to be the hearing of the accused and his opportunity to examine witnesses.

Dionisije, in writing, requested the Investigating Commission "for the accusations to be duly presented to us in order to be able to reply to them." (DX 258, A. 1765)

Bishop Visarion testified that the Commission had the charges with them in a briefcase. (R. 1487, A. 218) Bishop Dionisije demanded to see the charges against him so that he could answer them. (PX 82, A. 1324). They did not show the charges to Bishop Dionisije. (R. 1490, A. 218) In fact, they had not even read the charges. (R. 1475, A. 216) The meeting lasted about one-half hour at most. (R. 1562, A. 228) No witnesses were heard.

Bishop Dionisije was denied legal counsel at the meeting. (R. 1602-7; A. 231; R. 6529; A. 489-90; R. 4726-31, A. 417-8; R. 4758, R. 1368; A. 494, A. 215).

The Commission did not hear any witnesses or take any evidence prior to meeting with Bishop Dionisije on July 5, 1963. (R. 1576-7; A. 229). Following the July 5, 1963 meeting, the Commission did not take any action to verify or investigate any of the charges made against Bishop Dionisije (R. 1585; A. 230).

The day following the alleged "hearing" the Investigating Commission distributed to the Serbian parishes and communities in America and Canada, a finding that Bishop Dionisije had trampled his oath, renounced obedience to the Church, and that he may be considered stripped of his episcopal rank and excommunicated from the church com-

munity. It further directed all American Serbs not to submit themselves under any circumstances to Bishop Dionisije (PX 17, A. 981). The document, drafted with the help of Firmilian, was issued by the Investigating Commission pursuant to their oral "discussions" with the Synod to do what was necessary (R. 1470; A. 215). At the time of issuance of this finding of guilt and denunciation of Dionisije, the Investigating Commission had not even opened or read the charges against him. (R. 1576-81, A. 229-30)

The hasty "hearing" and the public denunciation and finding of "guilt" of Bishop Dionisije by the Investigating Commission, with the assistance of Bishop Firmilian, was in direct furtherance of the three administrators' June 10 request to the Synod to rush the trial against Dionisije and make a definite decision regarding his guilt. (DX 198, A. 1671).

D. The "Trial" and Deposition of Bishop Dionisije of July 27, 1963 Violated The Penal Code and Constitution.

After publishing the broadside of July 6, condemning Bishop Dionisije, the Investigating Commission consecrated Bishop Stefan, and requested a special session of the Holy Assembly of Bishops held in Belgrade July 26 and 27, 1963.

All of the complaints and charges against Bishop Dionisije were read and circulated at the July 27, 1963 meeting, although none had been given the accused. Petitioners, thus, misrepresent in their Brief at pages 22 and 6a-7a that the personal charges were not considered by the Assembly. Their witness, Bishop Visarion, contradicts these assertions. (R. 1635-6, A. 234)

The "trial" and punishment violated every relevant provision of the Serbian Orthodox Church Constitution and its Penal Code, in the following respects:

1. Article 111 (A. 1181) requires a "canonical verdict" to be entered before the Holy Assembly may remove a bishop from his diocese involuntarily.

2. Article 70, Pt. 35 (A)6 provides that the Holy Synod "judges . . . in the first instance; canonical offenses of a bishop. . . ." (PX 68) (R. 4740; A. 419-20). The Synod must judge a bishop as the court of first instance; the Assembly, after "canonical verdict" may take the steps to remove him. In this instance the Assembly judged him and removed him. Article 69, P. 27 (B) expressly limits the jurisdiction of the Assembly to ". . . the second and final instance" of any matter which the Synod has jurisdiction of in the first instance.

3. Article 216 of the Constitution and 55 of the Penal Code provide that 'transfer to another place of service" and "loss of parochial service respectively any other position in the church", are "Church Penalties." (R. 4739; A. 419). Article 218 of the Constitution provides "that no one can be punished with any church penalty without prior hearing" (PX 68) as does Article 67 of the Penal Code. (PX 69). No hearing was ever given nor were any charges preferred at this time.

4. Article 217 of the Constitution requires that a penalty of transfer to another place for a period greater than 30 days can only be pronounced by the "jurisdictional Diocesan Ecclesiastical Court" (PX 68) which in this case is the Holy Bishops' Synod (Art. 70-35-A-b); (R. 4739; A. 419).

5. At the July 27, 1963 Assembly meeting, none of the provisions of Article 67 through 71 of the Penal Code requiring notice, hearing or indictment had been complied with.

E. Bishop Dionisije Could Not Defend Himself on The Indictment Without The Enclosures.

During the trial of the instant case Respondents presented over 30 witnesses whose names were extracted from the "enclosures" which were withheld from Dionisije.

The purpose of producing these witnesses was not to seek a review of the sufficiency of the evidence but:

1) To demonstrate that the Indictment, without the enclosures, was indefensible and fundamentally unfair.

2) To confirm that there was no investigation or hearing of the "witnesses" as required by the Penal Code or fundamental due process.

3) To show that the great bulk of the charges were not made upon the knowledge of the person who submitted the charge.

4) To prove that many of the charges were barred by the five-year statute of limitations established by the Penal Code.

5) To illustrate to the court that, taken as a whole, the Indictment did not in any manner reflect the true reasons for the prosecution of Bishop Dionisije, but was a sham.

Article 69 of the Penal Code requires that the Indictment contain an "exact citation of evidence." This evidence was refused Bishop Dionisije. More than 6 years later, when the "evidence" was produced in this case,

the analysis established that the Indictment was so incredibly unfair as to be incapable of defense.

That examination of the Indictment reveals.*

A. 110 of the 125 accusations do not conform to the requirements of the Penal Code.

B. Of the 125 accusations, 14 omit both time and place, 33 omit time and 2 omit place. Eleven charges omit time, place and the names of the alleged victim or witnesses. Six charges omit either name, place or time.

C. 41 accusations, not included in the previous paragraph, are conclusions without any pretense of reciting the manner of commission, time or place. For example at page 7 "to all remarks and critics against his behavior and conduct, Bishop Dionisije is replying: 'and I am a live person and need everything as you.' "

After obtaining and examining the 23 enclosures and hearing the testimony of the witnesses the following facts were established:

A. 37 of the accusations are statements of persons other than writers of charges. An example is the first statement on page 2 attributed to Jovan Dutchith (who died in 1943) and quoted by Dusan Popovich in his 1962 memorandum. Of these 37 hearsay accusations: 9 are attributed to people who died before 1963. 16 are attributed to unknown and unidentifiable third parties. 3 were denied by the alleged third party under oath at trial. 2 were not confirmed by the alleged third party when the party took the witness stand during the trial. 5 were unsigned anonymous letters prohibited by Article 65 of the Penal Code and, of these 1 was denied by a

* See appendix A to Brief of Appellant Dionisije in Illinois Supreme Court for witness list and record references.

witness designated in the unsigned submission, and by King Peter II, who gave his Evidence Deposition from his deathbed. 1 is attributed to a priest who died prior to trial. 1 contradicted Diocesan records after the author testified that the charge was something he had heard from his father before his father's death.

B. None of the 23 enclosures were taken under oath by the Investigating Commission as required by the Penal Code. (R. 1367; A. 194)

C. 1 enclosure, DX 61, contains 25 of the accusations found in the indictment and is unsigned.

D. 2 enclosures are newspaper articles.

E. 4 enclosures, containing 17 of the indictment accusations, were written by priests who were defrocked or lost their position years before through misconduct and a verdict of the Diocesan Court of which Bishop Dionisije was President. (DX 148, 161, 172, 58 A and 164).

F. 11 of the indictment enclosures authors were called as witnesses by the Plaintiffs. None of them personally witnessed any sexual attacks, theft, or other alleged transgressions by Bishop Dionisije. These 11 authors accounted for 81 of the 125 accusations against the bishop.

G. The names of 35 alleged witnesses to accusations, were found in the enclosures but their names were omitted from the indictment.

Had the Investigating Commission read the charges, heard the witnesses, provided Bishop Dionisije with copies of the enclosures, and ruled out any unsworn or anonymous accusations as well as the newspaper articles, it would have found no case against Bishop Dionisije. But Belgrade intended to convict Bishop Dionisije from the very outset.

F. Bishop Firmilian Was Not Properly Appointed and Is Not Now The Temporary Administrator of the American Canadian Diocese.

The Holy Synod ordered the temporary suspension of Bishop Dionisije and the appointment of Firmilian during the pendency of the proceedings pursuant to their role as the "Diocesan Bishop" (Article 90—Penal Code) under the powers given the Diocesan Bishop by Articles 219 and 220 of the Constitution of the Serbian Orthodox Church (PX 1, A. 901).

Article 219 permits suspension "after the commencement of investigation." Bishop Dionisije was suspended on May 10 but the Investigators were not appointed until June 13, after the Administrator's request for a quick finding of guilt. The hasty suspension was part of the plan to redistribute the Diocesan assets. Had he been properly suspended, in the first place, the term of suspension would have ended twelve years ago.

Article 219 allows a temporary suspension, but provides that it shall remain only "until the verdict of the ecclesiastical court is rendered" and the ecclesiastical court "is obliged to make a decision within a period of one year." (A. 1827)

The suspension and appointment of an Administrator were incidental to the procedures of the Penal Code. These acts have no force and effect unless the proceedings against Bishop Dionisije have force and effect.

Petitioner Firmilian testified:

> ". . . my duties as administrator of the Serbian Eastern Orthodox Diocese of the United States of America and Canada were to continue until the guilt of Bishop Dionisije was conclusively investigated and judged.

> Bishop Dionisije's guilt was conclusively established by the Holy Assembly on March 5th 1964." (R. 7629, A. 535)

The Synod agrees. (Ex. A to Second Amend. Complaint, A. 50)

Petitioner Firmilian testified that in proceedings he brought against clerics:

> "A priest may be kept under suspension for only one year and at the end of that year they were automatically lifted." (R. 7833, A. 546)

At trial Petitioners proved that suspension was a temporary measure incidental to the Penal proceedings. (R. 3829-30, A. 397)

G. The "Transfer" of Bishop Dionisije to The Midwest Diocese Was A Penalty.

On May 10, 1963, the Holy Assembly of Bishops purported to transfer Bishop Dionisije from the American-Canadian Diocese to the Midwest Diocese, although Article 216 (4) of the Serbian Church Constitution provides that "transfer to another place of service" is a Church penalty. (PX 68, R. 4739, A. 419) Likewise, Article 55 of the Penal Code provides that "transfer to another place of service" is a Church penalty. (PX 69; R. 4737-9, A. 419)

The Constitution of the Serbian Orthodox Church prohibits the involuntary removal of a Bishop from his Diocese by the Holy Assembly of Bishops unless "upon canonical verdict." (Article 111, PX 68; R. 4739, A. 419) On May 10 there was no pretense that any "canonical verdict" had been rendered, or that the Holy Assembly of Bishops purported to exercise any authority under Article 111 of their Constitution.

The transfer was the imposition of a penalty upon Bishop Dionisije "without prior hearing" or "canonical verdict". Article 218 of the Constitution of the Serbian Orthodox Church requires a hearing before punishment. (PX 68) Father Stefanovich, the legal expert of the Patriarchate, so testified. (R. 4869, A. 428)

H. Bishop Dionisije Attempted to Participate in The Penal Proceedings But Was Prevented from Doing So by The Failure of Belgrade to Follow the Prescribed Procedures.

The best evidence of the unfairness of the indictment is the indictment itself. (PX 16, A. 930) A reading of the indictment reflects, upon its face, that it would be virtually impossible to formulate any sort of sensible reply to the myriad accusations, much less prepare any defense, without the "enclosures" or charges.

1. Bishop Dionisije Was Refused Copies of The Charges Against Him.

The charges given to the Investigating Commission for investigation and actually considered by the Holy Assembly of Bishops were secreted until the trial court ordered copies of them delivered in June, 1969.

The record reflects that Bishop Dionisije requested of either the Patriarch, the Synod, the Holy Assembly or the Investigating Commission, copies of any charges against him pursuant to the Articles of the Penal Code so that he might investigate them and make his reply to them in writing on the following occasions:

1. *December, 1962*—(R. 1342; A. 191)—Request of the 1962 Delegation.

2. *April 19, 1963*—PX 84 E—Letter to Patriarch.
3. *July 5, 1963*—DX 258, A 1765—Letter to Investigating Commission.
4. *July 5, 1963*—Orally before the Investigating Commission (R. 6527; A. 488).
5. *July 11, 1963*—DX 150, A. 1640—Request to the Synod.
6. *July 13, 1963*—DX 151, A. 1645—Letter to the Investigating Commission.
7. *August 8, 1963*—DX 240, A. 1703—Proclamation of of the 10th Church Sabor.
8. *November 18, 1963*—PX 84 S and 84 T, A. 1356, 1358—Letter to the Synod.
9. *January 13, 1964*—PX 84 V, (A. 1360)—Telegram to the Synod.
10. *January 25, 1964*—PX 84 W—Letter to the Synod.

The charges were never given to him.

Witness Father Zivan Stefanovich testified that the Penal Code contemplated that the accused must be acquainted with and received the documents and charges against him pursuant to the mandate of Article 67. (R. 4757; A. 422). In his 30 years of experience with the Penal Procedures of the Serbian Church, there was never a case in which the accused was denied the right to analyze the complaints and make copies of them. (R. 4855-6; A. 426). Metropolitan Damaskin admitted that it is customary to provide a clergyman copies of the charges against him. (R. 1368; A. 194).

Bishop Vasilije, the Church Prosecutor, testified that it is and was the custom and practice to provide the accused

with copies of the Complaints made against him. (R. 9667-8, A. 673).

2. A "Guilty Verdict" Against Bishop Dionisije Was Assumed from the Beginning of the Proceedings.

From May 10, the Belgrade Bishops and their three agents were certain of a finding of guilty and the deposition and defrockment of Bishop Dionisije.

Defendant's Exhibit 193 (A. 1650) are the minutes of the Holy Assembly of Bishops, of May 11, 1963, the day following the initiation of the charges. At page 2 of the minutes, Metropolitan Damaskin addressed the Assembly and told them that because of what they had done yesterday "it was necessary to elect *THREE* bishops", one of whom would be a lifetime appointee replacing Bishop Dionisije. The Patriarch moved the election of three new bishops, and the Assembly voted on the Motion, 10 bishops voting "Yes", but not quite a majority.

The highest legislative tribunal of the Serbian Orthodox Church, the Holy Assembly, voted to fill Bishop Dionisije's vacancy the day after it ordered the initiation of process. The highest executive authority of the Serbian Orthodox Church, the Synod, on May 17, 1963 knew that Bishop Dionisije was to be dissolved from his priestly services and discharged from governing the Diocese. (DX 194, A. 1656) The three plaintiffs demanded the guilty verdict regarding his "schismatic actions and other wrongdoings" before the August 6 Sabor meeting. (DX 198, A. 1661)

The record is bare of any suggestion by the legislative, executive, or judicial organs having jurisdiction, that Bishop Dionisije might be found not guilty.

3. Bishop Dionisije Was Not Given A Copy of The Indictment Upon Which He Was Tried.

Bishop Dionisije was not tried upon PX 16 (A. 930) the indictment forwarded to him. The trial disclosed that the following amendments were made to the indictment before submission to the Assembly for judgment:

1. The Court Prosecutor was permitted to "extend his indictment of the 16 of October, 1963, to include the offenses of Bishop Dionisije committed on the 13 and 14 of November, 1963, at the so-called X National Convention in Libertyville." (PX 21, p. 20, A. 1005)
2. Father Stefanovich, who drafted the judgment, testified that the Church Prosecutor amended the indictment upon a "joint report of Bishop Stefan, Firmilian and Gregory, of November 25, 1963." (R. 4897; A. 431)
3. Bishop Visarion testified: "I prepared a supplement to the original indictment on March 5, 1964. This supplement was not reduced to writing, but was delivered orally before the Holy Assembly of Bishops and, of course, Bishop Dionisie was not there. The supplement was not sent to him." (R. 9672-5, A. 673)

In the opinion of Father Stefanovich, these charges may have been the "most serious offense of Bishop Dionisije." (R. 4897; A. 431). But, they were never provided to the bishop as required by Article 70 and 67 of the Penal Code.

This judgment admits that it was based upon the amended indictment. (PX 21, p. 20, A. 1005). "Rudimentary due process" and "reasonableness" require that any accused be informed of all of the charges against him, before trial.

The law requires that proceedings of this nature by a church be treated the same as proceedings by other voluntary associations. *Gonzales* v. *Roman Catholic Archbishop of Manila,* 280 U.S. 1, 50 S.Ct. 5 (1929). See also *Virgin* v. *The American College of Surgeons,* 42 Ill. App. 2d 352, 192 N.E. 2d 414 (1963).

I. Petitioners Concede That Fraud and Collusion Vitiates the Belgrade Judgments.

Petitioner's Brief states at pages 45 and 46 that if Belgrade were guilty of fraud, this Court should not enforce the decisions of Belgrade. Petitioners concede that the concept of fraud does not involve "substantial danger of infringement on constitutional guarantees." Petitioners then mistakenly suggest that fraud is not involved in this case.

It has been Respondent's position from the initial pleadings that the proceedings against Bishop Dionisije were arbitrary, fraudulent or collusive.

"Fraud, indeed, in the sense of a court of equity, properly includes all acts, omissions and concealments which involve a breach of legal or equitable duty, trust, or confidence, justly reposed, and are injurious to another, or by which an undue and unconscientious advantage is taken of another." *Securities and Exchange Commission* v. *Capital Gaines Research Bureau,* 375 U.S. 180, 194, 84 S. Ct. 275, 284 (1963).

Petitioners err by assuming a fundamental difference in defining the three terms "fraud", "collusion" and "arbitrariness". Essentially, these three terms, taken together, denote those actions by a voluntary religious association which are fundamentally unfair. Certainly a person defrauded of his rights by a club, union or religious society should have relief in a civil court. It is, thus, unnecessary to distinguish between "fraud" and "arbi-

trariness", the purpose of all three terms in the context heretofore used is to insure fairness.

Bishop Dionisije has been unfairly treated by Belgrade. The record reflects "bad faith" in that Belgrade deliberately refused to follow its own rules.

Petitioners argue that this Court has never had occasion to apply the "Gonzalez Rule" in a church case. No stronger case of "fraud, collusion or arbitrariness" by a church against one of its members could be presented than the instant case.

CONCLUSION

Respondents pray that the decision of the Illinois Supreme Court be affirmed except

Respondents pray that this Court:

1) Affirm the holding of the Illinois Supreme Court that the attempted dissolution of the American-Canadian Diocese is unenforceable by the Civil Courts;

2) Affirm the holding of the Illinois Supreme Court that the appointment of the temporary administrator and the suspension, deposition and defrockment of Bishop Dionisije are unenforceable by civil courts.

3) Reverse the holding of the Illinois Supreme Court that the existence of "religious unanimity" prevents the parties from repudiating their former relationship.

Respectfully submitted,

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APPENDIX

APPENDIX A

STATEMENT OF FACTS

This church property dispute began on May 10, 1963 when the Serbian Church in Belgrade passed decisions purporting to liquidate the American-Canadian Diocese, replace it with three new dioceses and initiate penal procedures which resulted in the alleged defrockment of Bishop Dionisije, the bishop of the diocese. The following are the facts pertinent to this case.

The first known Serbian Orthodox Church in the United States was established in Jackson, California, in 1894, by Father Dabovich, a clergyman of the Russian Orthodox Church. At that time and until 1920, all of the Serbian Orthodox Churches in North America were under the jurisdiction of the Russian Orthodox Church. (R. 3419, A. 356; DX 30; A. 1573, 5365-66; A. 451, R. 1997, A. 271-2, A. 1803). By 1917 there were about 200,000 Serbs in America under the jurisdiction of the Russian Orthodox Church. (DX 33, A. 1599).

Before 1920, the Serbian Orthodox Churches in the United States organized and adopted their own constitution. The earliest minutes which could be found in the Archives of the American-Canadian Diocese are DX 30 (A. 1573), the minutes of the first Convention of the Serbian Orthodox Priests and People in America held on October 24, 1913 in Chicago, Illinois.

The minutes contain a good history of the Serbian Church in America. The issue placed before the first Convention was whether or not they were willing to organize all of the Serbian Church congregations into a diocese. At that time, they were affiliated with the Russian

Orthodox Church and expressed a desire to have the protection of the Metropolitan of Belgrade-Serbia. The minutes recount how the Russian Church was burdened and not able to tend to local Serbian needs. Unanimously, they voted to seek the protection of the jurisdiction of the Metropolitan and Archibishop of the Kingdom of Serbia.

DX 31 (A. 1588) are the minutes of the meeting of the 1916 Priest's Assembly held in Chicago, Illinois. His Grace, Bishop Evdokim, Archbishop of Aleutia and North America, a Russian bishop, presided. He reviewed the history of the Serbian Church in America under the Russian officiation. A "Normal Constitution for the North American Orthodox Diocese" of 1909 was accepted, except that the words "Russian Church" were deleted and the words "Serbian Church" were inserted in their place. The Serbian Churches in America were divided into four districts. Thirty-two Serbian Orthodox parishes in the United States were placed under the jurisdiction of Serbian Priest-aides to the bishop.

In 1917 Father Mardary, a Serbian, educated in the Russian Orthodox Seminaries was sent to America by the Russian Orthodox Church with the following directions:

> "Finding that the time is ripe that to the Serbs should be given a possibility that they, themselves, may organize their own church life in America, *the Holy Synod of Russian Church decided, for the purpose of organizing an independent Serbian Diocese, to send a known person and devoted penslavist and Serb, a candidate of Russian Academy, Father Mardary Uskokovich. He is appointed to be the chief of the serbian mission in America. His duty is:*
>
> "TO CALL A SERBIAN CHURCH-NATIONAL ASSEMBLY OF THE SERBIAN PRIESTS AND PEOPLE FOR THE ORGANIZING OF THE SERBIAN ORTHODOX CHURCH IN AMERICA.

> "In the name of the Russian Orthodox Church, I am notifying the Serbian priests and people and I am invoking God's blessing *for an independent church life of the Serbian people in America.* . . .
>
> "May Grace of our Lord Jesus Christ, and love of God the Father, and the communion of the Holy Spirit be with the faithful Serbian nation on its road of creating of the INDEPENDENT SERBIAN CHURCH IN AMERICA.
>
> Governing the North-American
> Orthodox Mission
> Bishop ALEXANDER" (DX 33,
> A. 1598, 1804)

Father Mardary was elected a bishop by the Russian Orthodox Synod, but was not consecrated. (R. 8594; A. 598).

Change of Affiliation

In 1921, as a result of Father Mardary's efforts, the reorganized Serbian Orthodox Church recognized the American Serbian Diocese and designated a bishop as the spiritual head of the diocese. Father Mardary was the assistant to this bishop until his election as bishop by the Serbian Orthodox Church in 1925. (DX 64, A. 1620).

On February 21, 1923, at a meeting of the Serbian Orthodox priests of America held in Gary, Indiana, Archimandrite Mardary was elected Vice-President and Secretary of the priest's conference. The meeting discussed, and Father Mardary explained, "about the position of this newly formed Diocese, about her affiliation towards the Church in the Kingdom of Serbs and Slovenes." (DX 37, A. 1602).

In 1924, he acquired 30 acres of land in Libertyville, Illinois which initially was to be used for an orphanage. (PX

130, A. 1450) In 1927, he organized and called a Church National Assembly embracing all of the known Serbian Orthodox Churches in the United States for the purpose of bringing them all together and uniting them under one constitution. (DX 49, A. 1605) At this meeting, the constitution (PX 30, A. 1019) of the Serbian Eastern Orthodox Diocese for the United States of America and Canada was drafted and adopted.

The constitution provided that the American-Canadian Diocese would rule and govern itself independently in all administrative affairs; would nominate and elect its own bishop to be consecrated by the Bishops of the Serbian Orthodox Church; and that the Diocesan Church National Assembly, also known as the Sabor, would amend the constitution. In 1928, the Holy Assembly of Bishops of the Serbian Eastern Orthodox Church, of Belgrade, Yugoslavia, approved the "autonomous administration" submitted to it by the American-Canadian Diocese, but struck out the provision authorizing the American Sabor to elect the bishop, and provided that all amendments of the American-Canadian Diocesan Constitution by the Church National Assembly would require the approval of the Belgrade Church. (DX 51, 1607, A. 1806). In substance, this is the constitution which remains in force and effect today. It is the only Diocese in the Serbian Orthodox Church with its own constitution. (R. 1453-55; A. 212, A. 1807)

The American-Canadian Diocese differs markedly from the dioceses located in Yugoslavia which do not have their own Constitutions. The American-Canadian Diocese has final authority, without review by Belgrade, over membership, priest selection, financial and educational policy, and control of local and diocesan property.

The approval (DX 51, A. 1607) notes that the bishop is the supervisor of the autonomous life in the spiritual or hierarchial sense. The American-Canadian Diocese retained its autonomy and independence, but affiliated itself sacramentally with the Serbian Orthodox Church. It is an autonomous church that has complete freedom in terms of its own Council, but is dependent upon another in a sacramental sense or for the consecration of its bishops. (R. 3783; A. 387; R. 3421; A. 360).

In 1927, a charter had been taken out in the name of the Serbian Eastern Orthodox Diocesan Council as an Illinois Not-For-Profit Corporation. This charter was allowed to lapse. (R. 7518; A. 528) In 1935, the Serbian Eastern Orthodox Diocese for the United States of America and Canada organized under the Illinois Religious Corporation Act. That corporation is one of the defendants. After Bishop Mardary's death on December 12, 1935, (PX 32, A. 1073) the Holy Assembly of Bishops appointed Bishop Irinej and later Bishop Damaskin as the Bishop of the Diocese. Damaskin visited the United States for about a year and returned to Yugoslavia in 1939.

In 1938, Bishop Dionisije was elected a Vicar Bishop. In 1939, he was elected the Bishop of the American-Canadian Diocese and confirmed by the King. (DX 29, R. 1350, A. 192, A. 1570) In April, 1940, he arrived in America to assume his duties. He was received by the Diocesan Council and began his duties as Diocesan Bishop, paid by the Royal Government of Yugoslavia and by the Diocese after World War II. (R. 6181, 6669-70, A. 471)

During World War II, many of the Bishops of the Serbian Church were interned. Bishop Dionisije and the American-Canadian Diocese continued to function. Following the war, the American-Canadian Diocese and Bish-

op Dionisije helped tens of thousands of Serbs to flee the oppression in their homeland and migrate to America as displaced persons. The Diocese flourished and new church congregations were founded. Each had its own by-laws and most were incorporated under the various laws of the State of their origin. Each is independent in the ownership of its property, management of its temporal affairs, and has the right to elect its Priest. (Art. 116, 147, PX 30, A. 1059, 1066) Each was entitled to send delegates to the Church National Assembly (Sabor) and participate fully. (Art. 15 & 16, PX 30, A. 1027) Sabors were held in the years 1948, 1952, 1956 and 1960. Many Serbian Nationalistic, Fraternal, Defense and Cultural Organizations sprang up, which, as well as Bishop Dionisije, were understandably critical of the Communist Regime of Yugoslavia following World War II. After the War, Bishop Dionisije did not travel behind the Iron Curtain because of declarations against him by the Government of Yugoslavia. (R. 8668; 9116-9; A. 605, 642-3) His nonattendance at meetings was acceptable to Belgrade.

The Property in Dispute

The American-Canadian Diocese grew from about 26 congregations in 1921 to approximately 70 in 1963. At issue is control of three substantial parcels of real estate.

St. Sava Monastery, Libertyville, Illinois, is composed of approximately 200 acres. The Monastery grounds contain a cemetery, large picnic grounds, facilities for children's summer camp which can comfortably house 160 children, the bishop's residence and the diocesan office and files. Since 1963, members of the American-Canadian Diocese have re-roofed the buildings, purchased and installed dining room and kitchen equipment, added an 80-bed wing

to the children's camp building, drilled new wells and established a complete printing shop capable of printing the diocesan newspaper, and Sunday School materials. (R. 8415-19; A. 580). All of these improvements have been paid for by donations from people supporting Bishop Dionisije and the American-Canadian Diocese. More than $300,000 has been raised and paid for these improvements. (R. 8423; A. 582)

The use of the premises, for the purposes intended by the Diocesan Constitution, has not been refused to anyone, since an unfortunate misunderstanding in 1963 and 1964. (R. 8416-8422; A. 581-2)

Shadeland Monastery, located near Springboro, Pennsylvania, is composed of approximately 1400 acres. It contains an Old Folks Home, a cemetery, picnic grounds, a children's camp with a capacity of about 100, a man-made lake, a chapel, and extensive farm operations. Since 1963 the two homes on the premises have been extensively remodeled, inside and out. The barns, milking facilities, silos, garages and tool sheds have been repaired and remodeled. New machinery, farm equipment and wells have been added. A new church is under construction for which $47,000 had been paid at the time of trial. Construction and payments have continued since then. (R. 8389-8407; A. 576-8)

This Monastery had an annual income of about $70,000 in 1969. No one is refused the use of the facilities and it has been used since 1963 by many who do not sympathize with the American-Canadian Diocese. (R. 8495-7, A. 590)

Since 1963, an estimated $120,000 in cash has been raised and spent on improving the Shadeland property (R. 8423; A. 582), in addition to many gifts of materials and supplies. (R. 8402-4; A. 577)

The St. Sava Mission is composed of 176 acres near Jackson, California. It contains extensive new dormitories for the children's summer camp with a capacity of 200 children. (R. 8424; A. 583) An Olympic-size swimming pool, completed after 1963, cost nearly $40,000. (R. 8463; A. 587) A new dormitory cost $100,000. The annual income from the Jackson operation is about $5000. Since 1963 $340,000 has been raised for the Jackson Mission by its Board of Directors from persons who support the American-Canadian Diocese. (R. 8423 and R. 8414-5; A. 582, 580)

There have been no limitations on the use of the premises which have been used by many people supporting the three new bishops. (R. 8414; A. 580)

Since 1963, members of the American-Canadian Diocese have made improvements to these three properties in excess of $750,000. (R. 8423; A. 582)

The American-Canadian Diocese is governed by the Church National Assembly (Sabor) composed of delegates and voting members of the constituent congregations. The Sabor elects a Church Diocesan Council which performs the executive functions of the Diocese during its term. The Bishop of the Diocese is President of the Diocesan Corporation, the St. Sava Monastery Corporation, and Diocesan Council.

The Diocesan property at Libertyville, Illinois is owned by the Serbian Orthodox Monastery of St. Sava, an Illinois not-for-profit corporation, having been transferred to that corporation from the Religious Corporation in 1945. (PX 136, A. 1459) This not-for-profit corporation was created pursuant to a December 7, 1944 Diocesan Council resolution. The resolution and by-laws of the

Monastery Corporation were exhibits in the appeal to the Appellate Court, but were not placed in evidence in the trial of this case.

The Diocesan Constitution (PX 30, A. 1019) places complete and final control of the Diocesan property in the Church National Assembly and Diocesan Council. The Belgrade Church has no authority to manage or control the property and assets of the Diocese.

The Belgrade Church

The Serbian Orthodox Church of Belgrade, Yugoslavia, is a National Orthodox Church which traces its origin to the 13th Century when it was founded by St. Sava. It existed in the Kingdom of Serbia, being alternately suppressed and revived during various occupations of the Kingdom through the last 600 years. After World War I, the Kingdom of Serbia along with neighboring kingdoms were reformed by the Allied Powers into the Kingdom of Serbs, Croats and Slovenes. The King of Serbia was enthroned as the ruler of the new nation and the church became an integral part of the Kingdom. In 1920, the Serbian Orthodox Church was formed by the merger of seven independent churches of the region. In 1931, it adopted a constitution which was amended substantially in 1947. This constitution was admitted as PX 68 (A. 1136) and relied upon by all parties. There have been some amendments to this edition, but none that affect the issues presented, except the amendment of May 10, 1963 which removed the American-Canadian Diocese from the Serbian Orthodox Church Constitution and replaced it with three new dioceses. (R. 1685-6, A. 237, R. 496, A. 137, A. 1811)

The church's governing functions are divided among three branches. The Holy Assembly of Bishops is the legis-

lative body composed of the bishops of the various dioceses. (PX 68, Art. 57 and 69, A. 1156, A. 1158-61, A. 1809) The Synod of Bishops is the executive body composed of four bishops and the Patriarch. (PX 68, Art. 59 and 70, A. 1156, A. 1162, A. 1809) The Patriarch is the presiding officer of the Holy Assembly of Bishops and the Synod. He is a bishop; the "first among equals."

The judicial authority of the church is supervised by the Supreme Ecclesiastical Court which oversees the Yugoslavian Diocesan Courts. (PX 68, Art. 71, A. 1175, A. 1809) Special judicial authority is vested in the Synod and the Assembly for particular cases. (PX 68, Arts. 57 and 59, A. 1156, A. 1809) This particular judicial authority is an important issue in the matter of the proceedings against Bishop Dionisije.

Article 14 specifies "the dioceses in the Serbian Orthodox Church", and lists the 24 dioceses located in Yugoslavia. (PX 68, Art. 14, A. 1141-2) Article 15 notes that besides the dioceses enumerated in Article 14 "in spiritual and hierarchial aspect" belong dioceses outside Yugoslavia. Prior to May 10, 1963, the American-Canadian Diocese was listed in subparagraph 1 of Article 15 as:

> "1. The Serbian Orthodox Church in the United States of America and Canada, with its see in Chicago or in the Monastery of St. Sava, in Libertyville, Illinois."

The Assembly of Bishops amended this Article on May 10, 1963 by deleting the American-Canadian Diocese and, in its place, listing as paragraphs 1, 2 and 3 the three new Dioceses: Eastern, Midwestern and Western. (R. 807, A. 157; R. 1276, A. 182; R. 1693, A. 238; R. 1684-5, A. 236-7, A. 1811)

Serbian Church Penal Procedures

In 1961, the Serbian Orthodox Church adopted a revised Penal Code for Ecclesiastical Courts of the Serbian Orthodox Church. (PX 69, A. 1243) The Penal Code details the offenses, procedures, and punishments of the church. It supplements Articles 214 through 224 of the constitution which deal with church offenses and penalties. (R. 1388-90; A. 197)

Ecclesiastical-judicial authority is exercised against ordinary clergy and laity by the Diocesan Bishops, the Diocesan Ecclesiastical Courts, and the Supreme Ecclesiastical Court. (PX 69, Art. 63, A. 1261) In proceedings against a Bishop, "special judicial authority is exercised by those bodies provided for in Article 70, Pt. 35, and 69, Pt. 27 of the constitution." (PX 69, Arts. 63 and 90; A. 1261, 1270; PX 68, Art. 57, A. 1156)

Article 70, subparagraph 35 (A. 1164, A. 1815), of the constitution (PX 68) provides that the Holy Synod of Bishops judges "in the first instance . . . (b) canonical offenses of a Bishop." Article 69, subparagraph 27 B (A. 1161, A. 1815), provides that the Holy Synod Assembly of Bishops judges "in the second and final instance: all matters which the Holy Synod of Bishops adjudged in the first instance." Penal Code Article 64 (A. 1262) states that the court (Diocese, Supreme or Synod) "which had competence to initiate due process retains its competency until the Process is concluded."

Article 67 (A. 1263) of the Penal Code provides that the "competent Bishop," and in the case of an accused bishop, the Holy Synod, (PX 69, Art. 90, A. 1270; PX 68, Art. 70, Pt. 35, A. 1164) upon hearing a report concerning a transgression, shall evaluate the veracity and if the re-

port is "founded" shall order that "due process" be initiated by an investigation. For this purpose, the Synod shall "through the clergy of both orders under his jurisdiction . . . examine and investigate the matter and conduct necessary hearings of the accused and of witnesses, as well as collect evidence. . . . No one can be punished by any church punishment without a prior hearing," and, this Article provides, "insofar as it exists, a copy of the written complaint may be sent to the accused, respectively, of the private complaint, so that he himself may reply in writing by his written explanation and hearing."

After the collection of "necessary facts and evidence is completed" (PX 69, Art. 68, A. 1263), if the matter is deemed serious, it is submitted to the court (Holy Synod in case of a bishop) and the court prosecutor must draft an indictment and return it to the court. (PX 69, Art. 69, A. 1264) The indictment must contain (1) the name of the accused, (2) the data concerning the competency of the court, (3) the transgression describing the time, place and manner, (4) the official designation of the transgression, (5) the exact citations of evidence, and (6) the signature of the Church Court Prosecutor. (PX 69, Art. 69, A. 1264)

The indictment is then submitted to the accused for his reply. (Art. 70, A. 1264) Upon receiving the reply, the court shall meet, study the sworn testimony and evidence, and vote on the transgression and the penalty. (PX 69, Art. 71, A. 1265)

Article 77 (A. 1266) provides that any judgment of the trial court ("courts of the first instance") which calls for loss of service, suspension of clerical function, or defrocking must be submitted to the reviewing court ("court of

the second instance") for final review. A bishop's trial court is the Synod; the Appellate Court is the Assembly. (PX 68, Art. 70, Pt. 35, A. 1164 and Art. 69, Pt. 27, A. 1161)

Article 82 (PX 69, A. 1268) states that the reviewing court shall annul any judgment if (1) the trial court was not competent, (2) was not properly and duly constituted, or (3) if disqualified persons participated. Article 124 A. 1184, A. 1814) of the constitution (PX 68) explicitly prohibits a member of the court "who has participated in the investigation of the subject matter being adjudicated," from taking part in the decision and "judging."

Article 219 (A. 1223) of the constitution (PX 68) allows the Diocesan Bishop (Synod) to suspend a cleric from officiation "after the commencement of investigation" until the verdict of the Ecclesiastical Court is rendered when the offense is one which would cause scandal among the people. Matters of this kind are considered urgent and the appropriate court is obliged to make a decision within a period of one year.

Article 216 (A. 1222) of the constitution (PX 68) and Article 55 (A. 1257) of the Penal Code (PX 69) provide that transfer to another place of service is a church penalty for ordained members of the church. No one is to be punished with any church penalty without a prior hearing. (PX 68, Art. 218, A. 1223.)

Article 111 (A. 1181) of the constitution restrains the Holy Assembly of Bishops from removing a Diocesan Bishop from his diocese unless upon a "canonical verdict" or a release upon proof of incapacity, pension, or by establishing proof of "one of the conditions provided for in (Article 104)."

The Belgrade Decisions

Because of the increase in the number of church school congregations, the 1960 Church National Assembly and Bishop Dionisije requested the appointment of at least two Assistant Bishops. A Delegation was sent to Yugoslavia suggesting the appointment of such assistants in 1962. (PX 84I, A. 1353) The Diocese did not request division.

As a result of these requests, in 1962, the Belgrade Church sent a Delegation composed of Metropolitan Damaskin, Bishop Nikanor and Father Petrovich to the United States, ostensibly to look into the request. (PX 73, A. 1279, DX 117) Covertly, the Delegation solicited charges against Bishop Dionisije. (R. 1046, 6407; A. 166, A. 481) The Delegation advised the American-Canadian Council that Belgrade would consider the election of Vicar Bishops for the American-Canadian Diocese, but that election of Vicars by the people in America could cause the Church problems in Yugoslavia. (PX 115, A. 1426) Bishop Dionisije was promised copies of the collected charges against him but did not receive them. (R. 6344; A. 478)

During early May, 1963, the Holy Assembly of Bishops met in Belgrade, Yugoslavia. In the session of May 10, 1963, the Assembly of Bishops amended the Constitution of the Serbian Orthodox Church and deleted the American-Canadian Diocese from Article 15. In its place were substituted Paragraphs 15-1, 2 and 3, establishing the three new Dioceses, the Western, the Midwest and the Eastern. (R. 495-6, A. 137-8; R. 1686, A. 237; R. 1693, A. 238; PX 4, A. 908) On the same day, the Assembly of Bishops directed the Synod of Bishops to initiate legal proceedings against Bishop Dionisije under the Penal Code (PX 69) and Constitution (PX 68) of the Serbian Orthodox Church

upon the basis of written complaints which the Synod had received and those developed by the 1962 Delegation. Bishop Dionisije was allegedly transferred to the Midwest Diocese. (PX 4, A. 908)

The next day, May 11, the Assembly discussed the election of three new Bishops, one of whom would replace Bishop Dionisije. Although a majority of Bishops present voted in favor of this proposal, the Constitutional majority required was not achieved. An alternative proposal, the election of one new Bishop for the Eastern American Diocese did pass.

The Synod, acting under the authority of Articles 67 and 90 of the Rules and Procedures for Ecclesiastical Courts of the Serbian Orthodox Church, as well as Articles 219 and 220 of the Constitution of the Serbian Orthodox Church, suspended Bishop Dionisije from the performance of his priestly duties. (PX 3, A. 905). Incidental thereto, Bishop Dionisije was requested to relinquish the government of his Diocese to Firmilian Ockoljich, as his temporary Administrator pending the Investigation, Hearing and Judgment. Firmilian, Gregory and Stefan were appointed Administrators of the three new Dioceses by the Synod on May 17, 1963. (PX 7, A. 915)

Bishop Dionisije first learned of the Belgrade actions when he received a copy of a public letter from Belgrade sent to all of the clergy, congregations and certain prominent laymen in the American-Canadian Diocese. Bishop Dionisije then sent his own letter to the same persons on May 25, 1963 (A. 1281-88). In that letter, the Bishop repeated the text of the Belgrade circular and set forth his position concerning the May 10, 1963 decisions. He noted that the Constitutions of the Diocese and the Church

forbade the division of the American-Canadian Diocese without its prior consent. His suspension was in violation of Article 218 of the Church Constitution because it was a penalty without a prior hearing as guaranteed by that Constitution. The Bishop stated publicly his willingness to be tried by any Court, under proper procedure, because he did not feel himself guilty of any offenses. He attributed the decisions to pressure placed upon the Serbian Orthodox Church by the government of Yugoslavia noting that less than a year before Metropolitan Damascan, representing the Church, had requested a working relationship with the Yugoslavian Council. Bishop Dionisije repeated his opposition to the Communist Government of Yugoslavia and requested the various congregations, clergy and laymen to resist the division of the Diocese.

By June 3, an official letter concerning the May 10 decisions had reached Bishop Dionisije and he wrote a letter dated June 3, 1963 to the Synod (A. 1271-1277). In that letter, the Bishop noted that the decisions of May 10 were contrary to the Constitution of the Church stating: "I recognize, besides God's, certainly the competence of the Holy Bishop Assembly and Synod when they do in compliance with canonical and legal rules." He then notes that paragraphs 218, 219 and 220 of the Constitution and 67 of the Penal Code were not followed in the procedure instituted against him. He reviewed the history of some earlier complaints by left-wing organizations and non-members of the Serbian Orthodox Church and requested that he be given a copy of the charges against him so that he might answer. The Bishop had not received any charges and did not know the reasons for his suspension.

On May 30, Bishop Dionisije wrote to the appointed administrator, Reverend Firmilian. (A. 1440-1) He informed Firmilian that he could not surrender his duties until the meeting of the Sabor (Assembly), and that if the Sabor requested that he surrender his duties, he would do so. He expressed his conviction to Reverend Firmilian that the decision from Belgrade was influenced by the Yugoslavian Government and that he would continue to oppose this "unjust and uncanonical decision."

On June 6, a meeting of the Diocesan Plenum, an organization of approximately thirty-five people including the Diocesan Council and governing boards for the Diocesan properties, composed of elected lay and clergy members, met in Libertyville to discuss the May 10 decisions. They decided to advance the date for the Diocesan Sabor (Assembly) to August, 1963. All but five or six of the persons attending that meeting expressed the belief that the Diocesan Constitution forbade the division of the Diocese without its prior consent. Reverend Firmilian, in a private memorandum to Belgrade several days later, admitted that the leadership of the Diocese and the majority of its congregations believed that the Diocese could not be properly divided without its prior consent. (A. 1661-73)

Thereafter, the Diocesan Council and members of the Diocese, as well as Bishop Dionisije, replied to Belgrade that they did not recognize the dissolution of the American-Canadian Diocese and the establishment of three new Dioceses in the United States and Canada, and requested a prompt hearing and disposition of the charges against Bishop Dionisije. (PX 15, A. 929) The Church National Assembly was advanced from October to August by a unanimous vote, including the vote of Reverend Firmilian. (R. 3330; A. 342, 358; PX 198, A. 1661)

On June 13, 1963, the Synod, acting upon the authority vested in it by Article 90 of the Penal Code, appointed the

Investigating Commission to carry out the mandates of Article 67 of the Penal Code. (PX 14, A. 928) This Investigating Commission was composed of Bishops Visarion and Chrysostom, as well as Arch-Priest, Mladen Mladenovich, Secretary to the Synod.

By, mail, arrangements were made to meet with Bishop Dionisije and the Investigating Commission on July 5, 1963 at Libertyville. On that day the Investigating Commission arrived, bringing with them in a briefcase all of the written charges against Bishop Dionisije and the various documents which later formed the basis for the Indictment and Judgment. (R. 1577-8; A. 229) Arrangements were made at a nearby restaurant for a private room.

Bishop Dionisije delivered a letter to the Investigating Commission at their meeting on July 5, 1963. (PX 258, A. 1765) In that letter, he first noted that he had never accepted the title of Bishop of the Midwestern American Diocese and that he should not be so addressed. Concerning the charges against him, he wrote: "We did not try to avoid any responsibility. We asked for the accusations to be duly presented to us in order to be able to reply to them. So far we have not received them. If we get them from you, we will try to answer the same. Verbal accusations and questionings we do not accept and consider illegal."

As soon as the three Bishops had closeted, Bishop Dionisije was asked whether or not he recognized the dissolution of the American-Canadian Diocese, the establishment of three new Dioceses, and the redistribution of the Diocesan property. Bishop Dionisije replied that the May 10 decisions were unlawful and then demanded copies of the charges against him. (R. 6527-9, A. 488; R. 1580, A. 229)

The Investigating Commission refused to show him the charges against him, and they were never removed from the briefcase, nor even read by the Investigating Commission. (R. 1577-8; A. 229) The Investigating Commission then concluded that there was no point in carrying out any further hearing (R. 1581; A. 230); the whole matter having been concluded in less than half an hour. (R. 9221; A. 652-3) The Investigating Commission made no investigation of the charges. (R. 1585, A. 230)

On July 6, the Investigating Commission, with the help of Firmilian, drafted and issued a Proclamation from Milwaukee directed to all of the Serbian Churches and members of the Serbian Orthodox Faith in the United States of America and Canada, stating that Bishop Dionisije was guilty, should be considered stripped of his episcopal rank, and deserved excommunication from the Church. All American Serbs were directed not to recognize him under any circumstances. (PX 17, A. 981, A. 1812)

A special session o fthe Assembly of Bishops was thereafter scheduled without notice to Bishop Dionisije, for July 26 and 27 in Belgrade, Yugoslavia. Bishop Visarion returned to Belgrade and reported to the Holy Assembly of Bishops that Bishop Dionisije had failed to recognize the Court of the Holy Synod, the division of the Diocese, and the judicial competence or jurisdiction of the Holy Synod. The Holy Assembly then voted that he was guilty and deposed him as Bishop of the Midwest Diocese. This was the first "trial" of Bishop Dionisije.

After deposing the Bishop from the Midwest Diocese, the Assembly elected Reverend Firmilian Bishop of the Midwest American-Diocese and Reverend Gregory Bishop of the Western American Diocese. These two Bishops were

appointed for their life times and as of the date of their election there were no vacancies for Diocesan Bishops in the Serbian Orthodox Church. Article 218 (A. 1223) of the Serbian Church Constitution provides that no person can be punished without a prior hearing.

In August 1963, a session of the American Church National Assembly (Sabor) was held in Libertyville, Illinois, pursuant to a call which had been issued earlier in the year, although the date of the meeting had been advanced to August for the purpose of considering the emergency. The August Sabor issued a Resolution to the Belgrade Church authorities challenging their right to dissolve the American-Canadian Diocese and dispose of its organs and property. (DX 240, A. 1703) The August Sabor was recessed until November in hope that the Assembly of Bishops would withdraw the decision. The plea of the Sabor was rejected.

In November, 1963, the recessed session of the Diocesan Sabor, having been rejected by Belgrade, reinstated, in substance, those provisions of the original Diocesan Constitution allowing it to elect its own Bishop and amend its Constitution without submitting the Amendments to Belgrade for approval. (PX 84CC, A. 1369)

In September, 1963, the Holy Synod, acting as the Court to try Bishop Dionisije, appointed a prosecutor who drafted an Indictment (PX 16, A. 930) based upon the charges and complaints which the Investigating Commission had returned to the Synod without investigation. The Indictment was forwarded to Bishop Dionisije in October. It was 37 pages long and contained multiple references to "enclosures" which were the written complaints and letters from various accusers. Bishop Dionisije received the

Indictment, but did not receive any of the "enclosures" referred to in the Indictment.

The Indictment of Bishop Dionisije charges him with rape, seduction, homosexuality, theft, ownership of property (not an offense in the Serbian Church), and refusal to obey the order dividing the Diocese and redistributing its property among the three new Dioceses. Contrary to the requirements of the Penal Code, the Indictment fails to specify time and place for most of the alleged transactions committed by the Bishop. The enclosures to which it refers, which were not given to Bishop Dionisije, were later ordered produced by the trial court. Examination of those enclosures indicate that more than thirty alleged witnesses were omitted from the Indictment.

The indictment charges offenses occurring in 1934-1963, citing some statements of alleged witnesses including persons who had been dead as long as sixteen years prior to the drafting of the Indictment. During the trial of the case, most of the living persons named in the Indictment as witnesses of the alleged transactions were produced by the Defendants and they testified, without exception, that they had never made the charges attributed to them, that they had never witnessed or had any knowledge of any wrongful conduct by the Bishop, and that no investigating commission from Belgrade ever asked them about the charges. Some of the persons who wrote accusations against Bishop Dionisije testified during the trial stating they had no personal knowledge of the charges which they made. Not one witness of the more than fifty who testified concerning the Indictment could testify to direct knowledge of any moral misconduct as charged in the Indictment.

The many witnesses produced at trial by Defendant to testify concerning the charges attributed to them by the

Indictment were produced, not to prove the falsity or the truth of the charges, but to establish that Belgrade never made any attempt to determine the truth or falsity of the charges through normal investigation as required by the Penal Code of the Church.

In November, Bishop Dionisije wrote to the Synod and requested copies of the "enclosures" as well as an extension of 6 months by reason of an automobile accident and the length of the Indictment. In December, the Synod, acting as the Court, refused to provide him with copies of the "enclosures" and granted him 30 days in which to answer the Indictment. (PX 84 T, A. 1358) In January, 1964, Bishop Dionisije returned the Indictment to the Synod with the statements that he could not answer the Indictment as there were no "enclosures"; the Synod and Assembly were not following the Penal Code and Constitution; no investigation had been carried out; and he could not bring his witnesses 6,000 miles to Belgrade for trial. (PX 84 W, A. 1360)

Thereafter, on March 5, 1964, amendments to the Indictment were allowed which were never forwarded to Bishop Dionisije. (R. 9672-5; A. 673) On March 5, 1964, the Synod did not rule upon the case or Indictment pending before it. Instead, the Assembly of Bishops took up the matter and tried Bishop Dionisije finding him guilty of the charges contained in the original Indictment and the Amended Indictment. He was removed from his episcopal rank and defrocked as a Priest. (PX 21, A. 989) The Bishop received no notice of this trial date. (R. 6579; A. 495) This was the second trial.

The Present Status

The three new Dioceses continued to operate as separate entities with their own Bishops and Diocesan organs.

They have established new Churches and ordained Priests. They have held their Sabors.

The American-Canadian Diocese has held its Sabors in 1963, 1966 and 1969, and continued in possession of its property, making improvements to it in excess of $700,000.00 (R. 8423; A. 582-3) Likewise, it maintains its own Bishops, Diocesan organs, and has established new Church congregations. The majority of the Church congregations in existence in 1963 retained their allegiance and loyalty to the American-Canadian Diocese and its Bishop (DX 240, A. 1703), while a minority and many of the new congregations established by the three new Dioceses have given their allegiance to and become members of the three new Dioceses.

The three new Dioceses held a Church National Sabor in 1964 composed only of people who recognized the dissolution and division and the three new Bishops. (R. 7651-2; A. 537) Any Priests or people recognizing Dionisije or the American-Canadian Diocese were excluded. (R. 7656; A. 538) In the Plaintiff's view, the only persons who can be members of the Serbian Orthodox Faith in America and Canada are those baptized Orthodox Serbs who pay dues and accept the decision of May 10, 1963 as to the division of the American-Canadian Diocese and the defrockment of Bishop Dionisije. (R. 7648-61, A. 537-8, R. 7825-26, A. 545-6) It is the duty of the new Bishops to implement the decision of Belgrade to divide the Diocese and disburse the property among the three new Dioceses. (R. 7632; 1276; A. 536, A. 182)

There has been no communication between the Belgrade Church and the American-Canadian Diocese since 1963. When Firmilian attempted to seize the American-Canadian bank accounts, this litigation began.

APPENDIX B

The Exhibits used herein and the pages of the Record where each was admitted in evidence are as follows:

PX	Record
1	R. 2931
8	R. 2931-3
14	R. 2932-3
16	R. 2932-3
17	R. 2915
20	R. 2933
21	R. 2933
30	R. 2949
55b	R. 2988
68	R. 3031
69	R. 3036
84V	R. 3152
84W	R. 3153
128	R. 3157

DX	Record
29	R. 5408
30	R. 5408
31	R. 5408
33	R. 5421
37	R. 5408
51	R. 5408
58A	R. 8322
61	R. 8323
148	R. 6485
150	R. 6553
151	R. 6568
161	R. 6740
164	R. 6747
172	R. 6923
194	R. 7594
198	R. 8336
220	R. 8340
240	R. 9319
243	R. 9356
249	R. 9358
250	R. 9359
258	R. 9989

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a Religious Body, et al.,
Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,
Respondents.

PETITIONERS' REPLY BRIEF

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PETITIONERS' REPLY BRIEF

Petitioners' opening brief demonstrated that the decision of the Illinois Supreme Court poses extremely serious constitutional issues by making civil courts the ultimate interpreters of internal church regulations and by sanctioning a strict and detailed review of church proceedings by the civil courts. Such intervention by the civil courts is constitutionally impermissible. Since the Serbian Orthodox Church is a hierarchical church, the decisions of its highest judicatories should generally be recognized by the civil courts.

Respondents have largely ignored the constitutional issues presented by this case. In most instances, they do not even respond to Petitioners' arguments. Rather, Respondents' brief proceeds by simply arguing that the construction which they and the Illinois Supreme Court have placed upon the internal regulations of the Serbian Orthodox Church is correct.

Respondents' brief does not dispute many of Petitioners' principal contentions. Respondents have apparently abandoned their earlier attempts to quibble about the hierarchical nature of the Serbian Orthodox Church. They concede the legitimacy of the Holy Assembly and Holy Synod and their status as the highest judicatories of the church. They do not dispute that the Holy Assembly and Holy Synod, who acted in this matter, possess exclusive jurisdiction in disciplinary proceedings relating to bishops.

Furthermore, Respondents' brief nowhere disputes Petitioners' contention that the Holy Assembly of Bishops is the supreme arbiter and interpreter of the church canons, dogma, constitutions and other sources of internal church law. When Respondents refer to the "hierarchical church" and "supreme interpreter of the internal church constitutional provisions" arguments (Resp. Br. 22), they do not dispute the accuracy of Petitioners' factual contentions, but only argue that the Illinois Supreme Court's judicial review was proper under the *Gonzalez* exception.

Indeed, Respondents rely entirely upon the *dictum* from the *Gonzalez* case. But there is considerable ambiguity as to the particular aspect of the "fraud, collusion or arbitrariness" doctrine upon which they rely.

Throughout their brief Respondents argue that the civil courts may examine ecclesiastical proceedings *de novo* to determine whether internal church regulations have been

followed, and invalidate those proceedings if a discrepancy is found. Respondents also assert that arbitrariness may result from a judicial determination of the absence of "fundamental fairness" in the ecclesiastical proceedings.

From time to time, Respondents also charge that the Mother Church acted fraudulently, a point they emphasize only at the very end of their brief. However, they have confused the entire matter by asserting that "fraud," "collusion," and "arbitrariness" really have the same meaning and that each is equivalent to the Respondents' elusive concept of "fundamental unfairness" (Resp. Br. 39-40). Respondents' analysis of fraud or bad faith is climaxed by the following strange sentence (Resp. Br. 40): "The record reflects 'bad faith' in that Belgrade [the Mother Church]* deliberately refused to follow its own rules."

The insubstantial nature of Respondents' vague and shifting "fraud" arguments is underscored by the fact that the only charge of fraud which the Dionisije faction made in 1963 and throughout the early stages of this litigation—that the disciplinary proceedings and the Diocesan reorganization had been imposed upon the Mother Church at the instigation of the Communist government of Yugoslavia—was never supported by evidence, has not been argued by Respondents in the Illinois Supreme Court or in this Court, and has now been abandoned.

We begin this reply brief by pointing out the lack of merit of Respondents' new quasi-fraud theory (pp. 4-17,

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* Throughout their brief in this Court (and in the lower courts), Respondents use the designation "Belgrade" for the Mother Church. Since there is no logical basis for using this term as an abbreviation, its use suggests an attempt to stir up anti-foreign prejudice which might somehow be applied to defeat the rights of the American church members who are loyal to the Mother Church.

infra). The next sections of the brief discuss Respondents' "violation of internal church rules" and "fundamental fairness" arguments and assess the implications of these arguments in terms of the constitutional issues presented by this appeal (pp. 17-26, *infra*). The last section of the reply brief discusses Respondents' attempt to argue, by cross-appeal, that their purported secession should be approved by this Court (pp. 26-29, *infra*).

I.

RESPONDENTS' HALF-HEARTED ATTEMPTS TO CHARGE PETITIONERS AND THE MOTHER CHURCH WITH "FRAUD" ARE BASELESS.

Respondents make charges or insinuations of fraud, bad faith, or a "plot" in a variety of ways in their brief. At times, they make the extreme argument that the Diocesan reorganization and the disciplinary proceedings against Dionisije were part of a single "plot". Respondents suggest that the disciplinary proceedings were undertaken after the Diocesan officials had opposed the Diocesan reorganization and were intended as an alternative means of seizing the Diocesan assets.

On other occasions, Respondents attack the two proceedings separately, characterizing the disciplinary proceedings as "unfair" and "predetermined" and making the old charges of a "property grab" against the Diocesan reorganization.

However these charges are characterized, they represent baseless attempts to divert this Court from the weakness of Respondents' position concerning the constitutional issues.

A. Respondents' Charges That The Disciplinary Proceedings Resulted From The Diocesan Reorganization Have Never Been Accepted By Any Court And Are Unsupported By The Record.

The opinions of the Illinois Supreme Court, Illinois Appellate Court, and the Trial Court contain no statements indicating that any of those courts perceived in the record a plot to press disciplinary charges against Dionisije in order to accomplish the Diocesan reorganization. Each court treated the disciplinary and Diocesan reorganization issues as separate and unrelated. The decisions of the Illinois Appellate Court and the Trial Court upheld the validity of the proceedings against Dionisije, but refused to recognize the Diocesan reorganization—a result hardly possible if the two were perceived to be part of a single "fraudulent plot".

Indeed, the brief filed in the Illinois Supreme Court by the Respondents other than Dionisije (the corporations which claim to embody the Diocese) took pains to emphasize the unrelated nature of the two issues. That brief stated at page 18:

> "The only other issue is the propriety of the deposition and defrockment of Bishop Dionisije, and that, as we will point out later, is a matter entirely unrelated to the question of whether the corporate defendants are entitled to retain their assets and their autonomy."

The brief further stated at page 22:

> ". . . However this Court may decide the case involving Bishop Dionisije, that decision will not be dispositive of the case as it pertains to these remaining defendants. . . . If cause exists, and if the proper procedures are followed, it cannot be denied that Belgrade has the power to depose and defrock Bishop Dionisije.

> However, that has no bearing upon the right of these defendants to their continued existence and autonomy."

Furthermore, Respondents' claim that Petitioners were "[p]revented from seizing the Diocese [sic] assets by the Diocesan authorities"* and thereafter "attempted to accomplish the same result by penal proceedings against Bishop Dionisije" (Resp. Br. 5) is flatly contrary to the record. The record shows that the delegation which visited the United States in 1962 recommended the appointment of a commission to investigate the accuracy of the charges against Dionisije.** The record also demonstrates that on May 10, 1963, before the Diocese was reorganized, the Holy Synod, on instructions from the Holy Assembly, commenced disciplinary proceedings against Dionisije and suspended him during the pendency of those proceedings (A. 167). Thus the disciplinary proceedings were recommended and actually commenced before the Diocesan reorganization was enacted and before the reaction of Diocesan officials to that reorganization was known. Respondents' "one big plot" theory is utterly without merit.

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* Respondents' statement that "the majority of all congregations in the American-Canadian Diocese" rejected the Diocesan reorganization (Resp. Br. 11) is not supported by the portions of the record Respondents cite nor by anything else in the record. It is not surprising that Dionisije's position was supported by a majority of the Diocesan Plenum since the members of the Plenum were either directly appointed by Dionisije or elected by the Sabor (church assembly) from candidates recommended to it by Dionisije.

** Respondents state that the 1962 delegation "solicited" charges. That claim is unsupported by anything in the record and is contrary to the record (PX 195A, A. 1530).

B. The Record Does Not Support Respondents' Charges That, Separately Viewed, Either The Disciplinary Proceedings Against Dionisije Or The Diocesan Reorganization Was Fraudulent.

Respondents apparently contend that each of the two proceedings (the Diocesan reorganization and the disciplinary proceedings), taken separately, was pursued in bad faith or fraudulently. These contentions also do not withstand examination.

No court in the course of this long litigation has found the existence of any fraud or bad faith. Although the Illinois Supreme Court decided both the disciplinary issue and the Diocesan reorganization issue favorably to Respondents, there is no suggestion in that Court's opinion of any finding of bad faith or fraud.

The Trial Court, which had the opportunity to observe Dionisije, Firmilian, and several other bishops and other officials of the Mother Church as witnesses, found affirmatively (A. 1776) that:

> "[N]o substantial evidence was produced by Defendants [Respondents] at the trial that fraud, collusion or arbitrariness existed in any of the actions or decisions preliminary to or during the final proceedings of the decision to defrock Bishop Dionisije made by the highest Hierarchical bodies of the Mother Church."

The Trial Court also stated with respect to the suspension, removal, deposition and defrockment of Dionisije (A. 1784) that:

> "These actions were valid, free and voluntary, binding ecclesiastical actions of the Holy Synod and Holy Assembly of the Serbian Church taken wholly within their ecclesiastical power and authority. They were in no respect tainted with fraud, collusion, duress or arbitrariness."

Indeed, Respondents considered their charges of "fraud" so weak that they did not even present them in their briefs before the Illinois Supreme Court. While the categories of "fraud, collusion or arbitrariness" are mentioned in a heading discussing the *Gonzalez* exception (Resp. Br. Ill. Sup. Ct. 29) and various epithets are applied to the actions of the Mother Church, there is no argument in those briefs that the actions of the Mother Church should be rejected as "fraudulent".

1. There Is No "Property Grab Plot".

In their original brief, Petitioners traced the evolution of the various ideas for supplying additional bishops to North America from the initial stages to the actual Diocesan reorganization on May 10, 1963. Petitioners pointed out that the boundaries of the three Dioceses generally conformed to existing episcopal districts, that the new administrators and bishops were Dionisije himself and three American clerics who were Dionisije's nominees for "assistant bishops", and that all details with respect to boundaries and property matters were left to be resolved by the Diocesan Assembly. Petitioners emphasized not only that there was an absence of evidence indicating any intention by the Mother Church to divert the Diocesan property from its trust or to compromise local autonomy, but also that the Diocesan reorganization did not and could not result in any diversion of that property from the American Church members (Pet. Br. 72-80).

Respondents merely repeat their "property grab" charges without making any effort to explain the inconsistent facts or rebut Petitioners' arguments. In response to our challenge to point to evidence of any intention by the Mother Church to reduce the autonomy of the American church or subject it or its property to additional control by foreigners (Pet. Br. 74), they offer nothing.

Respondents themselves unwittingly highlight the weakness of their "property grab" argument. The only injury from the Diocesan reorganization which Respondents can suggest is the notion that the Diocesan property would no longer be held in common by all church members in North America. Respondents suggest that a hypothetical California congregation would be prejudiced because it presumably would no longer possess a share in the Pennsylvania and Illinois real estate, which would be located in other Dioceses (Resp. Br. 10-11). Surely, this "injury" is a meager basis for a diabolical "plot" and a twelve year schism.

Indeed, Respondents' assumption that the Diocesan property would be divided among the three Dioceses may well be incorrect. Bishop Firmilian testified that no decision had yet been made and that the matter would be left up to the church national assembly (*Sabor*). He stated:

> "I do not know whether the property will be divided up and it is for the church national assembly to decide these questions. I heard the Bishop Nikanor testify that the monastery would go to the Midwest Diocese, Shadeland would go to the Eastern Diocese, and Jackson would go to the Western Diocese, but that is his opinion" (A. 537).*

Respondents charge that Firmilian was a part of the conspiracy against Dionisije. However, Firmilian testified that he had offered to return the administration of the Diocese to Dionisije if Dionisije would obey the orders of the Mother Church and if he were exonerated of the charges against him (A. 317). It was only when Dionisje

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* Nikanor himself testified that the Holy Assembly had made no decision with respect to the ownership or location of assets or property in the American/Canadian Diocese (A. 184).

refused obedience that Firmilian concluded "he was no longer my Bishop" (A. 318). Of course, Firmilian was no enemy of Dionisije. He had worked with Dionisije in America since 1941, when Dionisije had selected him to come with Dionisije to America and act as secretary of the Diocese. He had served as Dionisije's episcopal deputy in 1955-1963, and was one of the men suggested by Dionisije to be an "assistant bishop." (A. 300-05.)

All that is disclosed by Firmilian's testimony is that he made conciliatory but persistent efforts to assume the duties of the clerical positions to which he had been appointed by the church's highest judicatory. This Court has held that the fact that appointment to an ecclesiastical position incidentally determines the right to possession of church property does not transform the case into a property dispute. *Kedroff* v. *Saint Nicholas Cathedral of the Russian Orthodox Church*, 344 U.S. 94, 120-121, 123 (1952). Efforts by a cleric to assume the duties of the position to which he has been appointed likewise do not constitute evidence of a nefarious plot to "grab" church property.

In order to give credence to the myth of a "property grab plot", Respondents rewrite history, church practice and church documents, and mischaracterize the American/Canadian Diocese as an independent entity loosely affiliated or confederated with the Mother Church. We have described in our original brief and will not repeat here the evidence demonstrating recognition by the church constitutions and historical practice of the unity of the Diocese with the Mother Church and its subordination in many matters to the authority of the Mother Church. (See Pet. Br. 39-41, 27a-32a)

Respondents' suggestions that the American/Canadian Diocese has been governed and its property administered

by internally elected assemblies, councils and other officials (Resp. Br. 2, 9-10) purposely ignores the vital role of chief executive of the Diocese—the Diocesan Bishop appointed by the Mother Church. We have already described the very extensive powers of the Bishop (Pet. Br. 68-69, 79), and will not repeat them here. It should suffice to refute Respondents' contentions to note that the Diocesan Bishop may veto any decisions of the Ecclesiastical Court, the Diocesan Council and other diocesan officials. In the event of continued disagreement between the Bishop and other diocesan authorities, the issue is referred to the Holy Synod of the Mother Church for resolution (PX 30, Art. 56, A. 1041). The Bishop directly controls all the monastery property in California, Pennsylvania and Illinois, and is the principal officer of all of the corporations which hold title to Diocesan property (PX 30, Art. 156, A. 1069).

Respondents also mischaracterize the origin of the American/Canadian Diocese (Resp. Br. 7-11). As Petitioners pointed out in their opening brief (Pet. Br. 66-67), there was no independent American/Canadian Diocese prior to the Holy Assembly proceedings creating that Diocese in 1921.

Although there were meetings of priests and laymen in 1913 and 1916, these meetings never resulted in any continuing church organization, and certainly never gave rise to any "independent diocese".* Similarly, although Father Mardary was dispatched by the Russian Church in 1917 to attempt to organize a Serbian Diocese in the United States (DX 33, A. 1598-1600), no diocese was organized until

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* The minutes of the 1916 meeting, for example, contain explicit references to the failure to establish any lasting church organization (DX 31, R. 5408, A. 1590). These minutes further reflect that the American parishes were not an independent organization, but rather were subservient to the Russian Church (*id.*, at A. 1597).

1921, and then only pursuant to the directive of the Mother Church in Yugoslavia* (PX 25, R. 2941-42, A. 1014).

The unsuccessful pre-1921 attempts to create a Serbian Church organization in America have no significance in characterizing the relationship between the Mother Church and the American/Canadian Diocese after 1921. The American/Canadian Diocese did not come into existence until it was created by the Mother Church in 1921. As Petitioners pointed out in their opening brief (Pet. Br. 7-8, fn.), none of the proceedings relating to the creation of that diocese in 1921 refer to any negotiations, compacts, or agreements with any pre-existing church organization in the United States or Canada (PX 25, R. 2941-42, A. 1012).

2. The Disciplinary Proceedings Were Not "Predetermined".

In an effort to cast doubt upon the Mother Church's good faith in the disciplinary proceedings involving Dionisije, Respondents have focused on four shreds of evidence. When the record is analyzed, none of these items supports their argument.

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* In announcing his appointment as Administrator in a 1923 circular letter to all priests, Father Mardary confirmed that the American/Canadian Diocese was "established two years ago by the decision of Bishop's Council" (DX 35, A. 1600). Similarly, at a conference of priests in 1923, Father Mardary specifically made reference to "this newly formed" American/Canadian Diocese (DX 37, A. 1602). The 1921 Holy Assembly minutes direct the delegation sent to form the new diocese to settle any property matters with the Russian Church, with no reference to a need to consult any existing diocesan authorities in making this settlement (PX 25, A. 1014). Furthermore, the history of the early years of the Diocese shows the Administrator organizing Diocesan institutions (such as the Ecclesiastical Court and Sabors) for the first time (DX 37, A. 1602-04; DX 49, A. 1605-06). All this occurred before the Diocesan constitution was adopted in 1927-28.

The May 11 Vote. Respondents rely upon a discussion at the May 11, 1963 meeting of the Holy Assembly about a proposal to elect three bishops for North America. Since this discussion occurred a day after Dionisije's suspension, Respondents argue that the proposal to elect three new bishops (instead of two) somehow indicates that the Holy Assembly had prejudged Dionisije's case (Resp. Br. 37). However, this conclusion, weak on its face, is refuted by a consideration of two additional facts:

1. The proposal which was voted upon by the Holy Assembly on May 11 suggested the appointment of only one full bishop and two vicar bishops to administer the three reorganized dioceses in North America. Thus the proposal did not call for the replacement of Dionisije as Diocesan Bishop. Firmilian was one of those nominated to be a vicar bishop. His appointment was suggested in order that he might administer the Midwestern Diocese during the suspension of Dionisije (DX 193, A. 1653).

2. Even in this innocuous form, the resolution did not pass (*id.*).

The Administrators' June 10, 1963 Letter. Respondents contend that the June 10 report to the Holy Synod by the three American clerics who had been appointed temporary administrators of the reorganized dioceses shows a conspiracy to "rush" Dionisije's trial and a predetermination of guilt (Resp. Br. 11-12).

In fact, however, a fair reading of the report indicates only a desire to proceed promptly with the disciplinary proceedings, in order to minimize the confusion and controversy which were being caused by Dionisije's defiance of the Holy Assembly and his repeated public charges that

the proceedings against him were instigated by the Communist government of Yugoslavia.*

By the time the administrators' June 10 letter was written, Dionisije had repeatedly announced that he would not obey the order of the Holy Synod suspending him. He had refused to relinquish the administration of the Diocese to Firmilian, the duly appointed administrator. He had repeatedly attacked the Patriarch, Holy Synod, and the Holy Assembly as schismatic, pro-Communist, atheistic and heretical. Finally, in a meeting of the Diocesan Plenum on June 6, Dionisije had summarily discharged Firmilian, his episcopal deputy, and two of his three vicars general, for daring to be loyal to the Mother Church rather than to Dionisije. Under these circumstances, the administrators in their report naturally and properly expressed concern about the demoralizing effect on the church in America of Dionisije's charges of Communist domination, stating (DX 198, R. 8336, A. 1665-66):

> "[I]f the Bishop's wrong doings are proved, decisions of the competent Church authorities will be unconditionally accepted. The hardship of this question was Bishop's statements, oral and in writing, that everything against him is coming neither from his wrong-doings nor from wishes of the Holy Assembly of Bishops, but under the pressure of [the] Communist regime in Yugoslavia. . . . His writings contributed much in increasing doubt about the truth of his wrong-doings by many. . . . With passing time, this doubt was increasing more and more among the people causing quarrels, debates, and a situation which may produce division and schism."

* See, e.g., Dionisije's circular letters of June 3 (PX 76, R. 2799, A. 1294) and May 25, 1963 (PX 74, R. 2755, A. 1287-88), his press release of May 27 (PX 84K, R. 3141-43), and the minutes of the June 6 meeting of the Diocesan Plenum (PX 106, R. 3099, A. 1413-14).

Therefore, the administrators asked that Dionisije be tried promptly

> ". . . because he is making confusion among the Serbs by his statements, that the Communist regime is after him through the Holy Assembly of Bishops and Synod" (*id.*, at A. 1671).

Dionisije's July 5 Meeting With the Investigating Commission. Respondents complain that the Investigating Commission abruptly terminated its July 5 meeting with Dionisije, issued a press release denouncing him, and failed to conduct the investigation and hearing required of it (Resp. Br. 26-28).

This argument ignores Dionisije's conduct, both before and at the July 5 meeting. Prior to July 5, Dionisije had repeatedly and publicly announced his defiance of the orders of the Holy Assembly and Holy Synod relating to the disciplinary proceedings against him. He charged that those proceedings were instigated by the Communists and that the Mother Church was controlled by the Communists.

After the Investigating Commission was appointed, Dionisije ordered that the delegation not be granted hospitality at the monastery at Shadeland, Pennsylvania. He wrote letters to the Investigating Commission, announcing that he would refuse to participate in any oral hearings they might conduct. On July 5 he turned his fellow bishops away from the St. Sava Monastery (the Diocesan See), and required them to meet in a restaurant.

During the meeting Dionisije did much more than object to the Diocesan reorganization as Respondents suggest (Resp. Br., App. pp. 18-19). He admitted authoring the inflammatory May 25 and May 27 circulars which the Commission had in their possession, and stated that he stood by all of his previous statements. He again refused to recognize the authority of the Holy Synod or the Commission, to recognize his suspension, or to participate in any oral

hearing. He proposed to deal with the charges only in writing* (A. 212-15; PX 82, R. 3060, A. 1324; DX 150, R. 6553, A. 1640; DX 152, A. 1646; DX 241, A. 1719).

Under these circumstances it is hardly surprising that the Commission concluded it could not proceed further with any hearings in view of Dionisije's defiance, and that his conduct constituted ample grounds for relieving him from his position. Nevertheless, the record indicates that the Commission did not rest there. Two Commission members, Bishop Chrysostom and Proto Deacon Tripkovich, remained in the United States, investigating the charges against Dionisije. (PX 197, A. 1535-43; A. 215.) The Commission's public announcement on July 6, describing their meeting with Dionisije and denouncing his defiant and schismatic activities, was an understandable response to the treatment they had received and to Dionisije's public statements. It is remarkable that Respondents complain of this one public statement by officials of the Mother Church, while condoning Dionisije's repeated inflammatory public statements.**

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* Dionisije had earlier indicated that he required the written charges against him so that he could sue his accusers in the civil courts (DX 218, A. 1687-88).

** Respondents also make two minor points which do not merit extended discussion. Without any basis in the record, they prefer to ascribe the appointment of the Investigating Commission on June 13 to the administrators' June 10 letter, rather than to the June 9 telegram request by Dionisije's followers on the Diocesan Plenum for a prompt hearing (PX 15, A. 929-30). But it is improbable that the June 10 letter had even reached the Holy Synod in Yugoslavia by June 13.

For some reason, Respondents repeatedly cite as significant evidence of fraud the fact that the Investigating Commission was instructed to "do what was necessary" or "appropriate" (A. 689, 232). (See Resp. Br. 12, 27, 28.) Respondents' attempts to read sinister significance into that instruction merely underscore the weakness of their position.

The Basis of the Removal of Dionisije as a Bishop. Finally, Respondents argue that the earlier charges which were the basis of Dionisije's suspension on May 10 (the pre-May 10 charges) were before the Holy Assembly when it relieved Dionisije as Bishop on July 27, 1963. From this doubtful premise, they jump to the conclusion that the Holy Assembly found him guilty of those charges without a hearing (Resp. Br. 13). There is nothing in the record to support that conclusion. Indeed, the evidence is to the contrary. Both the Commission's report recommending Dionisije's removal (which was adopted by the Holy Assembly) and the order removing Dionisije were explicitly based upon his refusal to recognize his suspension, the authority of the Holy Synod and the Investigating Commission, and his refusal to obey the orders of the Holy Assembly and the Holy Synod (PX 8, R. 2931-33, A. 919-23).

II.

ADOPTION OF RESPONDENTS' "VIOLATION OF INTERNAL CHURCH RULES" AND "FUNDAMENTAL FAIRNESS" STANDARDS OF JUDICIAL REVIEW WOULD SERIOUSLY IMPAIR THE CONSTITUTIONAL RIGHTS OF CHURCHES TO GOVERN THEIR OWN AFFAIRS.

Stripped of the half-hearted and groundless charges of some type of "fraud", Respondents' legal argument is based entirely upon the premise that civil courts are free to conduct *de novo* review of ecclesiastical proceedings, either to redress "fundamental unfairness" or to determine whether the proceedings deviated in any particular from the requirements of internal church regulations as interpreted by the civil courts.

As we pointed out in our original brief, this expansive concept of judicial review is not consistent with prior decisions and would impair the constitutional guarantees of religious freedom. Respondents merely cite several court decisions in support of the proposition that their view constitutes established law (Resp. Br., pp. 19-22). They ignore the difficult constitutional issues posed by their position. Their position is supported neither by precedent nor by constitutional principles.

Respondents do not dispute the conclusions stated in Petitioners' brief that this Court has never had occasion to apply the *Gonzalez dictum* or to define its scope and content. In Petitioners' original brief we pointed out that this Court's actual decisions on the subject, commencing with *Watson* v. *Jones,* 80 U.S. (13 Wall.) 679 (1871), had all involved claims by dissident individuals or groups that officials of their hierarchical churches had taken action which was contrary to the internal church laws and regulations. In each case this Court refused to be drawn into considering the merits of the disputes relating to internal church laws.

Respondents' legal contentions are therefore really based upon a puzzling variety of decisions from lower federal courts or state courts, stretching over the period from 1893 to 1972 (Resp. Br. pp. 20-22). Respondents generally "string-cite" these cases, with little effort to show any analogy, factual or legal, to the situation in the case at bar.

In fact, Respondents' cases bear little factual similarity to the case at bar. Many do not even involve church organizations. The cases do not focus upon the constitutional issues presented in this action. Most sustained the challenged decision of the church or other organization. Of

the six cases cited by Respondents as rejecting church decisions for improper procedures (Resp. Br. 22), five involved congregational rather than hierarchical churches.

The following are examples of the inapposite nature of Respondents' authorities. *Silver* v. *New York Stock Exchange,* 373 U.S. 341 (1963), involved the question of whether the Securities Exchange Act created a duty of self-regulation so pervasive as to constitute an implied repealer of the antitrust laws. *Hendryx* v. *People's United Church of Spokane,* 84 P. 1123 (Wash. 1906), merely sustained the legal sufficiency of a complaint charging fraudulent conversion by a religious official of church property for his own personal use. *Le Duc* v. *Normal Park Presbyterian Church,* 142 F. 2d 105, 107 (7th Cir. 1944), sustained the finding of the Presbyterian Church that one of its former pastors was not entitled to past salary and pension benefits. *Merryman* v. *Price,* 259 N.E. 2d 883 (Ind. App. 1970), was decided on a "formal-title" basis, a doctrine clearly not applicable to this case. (See Petitioners' opening brief, pp. 55-59.) In *Turbeville* v. *Morris,* 26 S.E. 2d 821, 832 (1943), the South Carolina Supreme Court was asked to call a church council's decision "arbitrary" but saw the pitfall of entering into "intricate questions of the interpretation of ecclesiastical law extending back for more than a century," and refused to engage in the expansive judicial review which Respondents advocate. *Werner* v. *International Association of Machinists,* 11 Ill. App. 2d 258, 137 N.E. 2d 100 (2d Dist. 1956), upheld the expulsion of a member of a local lodge affiliated with an international labor union, and is most notable for its finding (favorable to Petitioners here in view of Dionisije's default) that the lodge properly tried its member's cause as a default matter when that member failed to appear at his hearing.

On the merits of the constitutional issue, Petitioners' opening brief noted that Respondents' expansive concept of "arbitrariness" as a basis for judicial review would necessarily involve the civil courts in a detailed parsing of internal church regulations. That concept would also encourage dissident groups to follow Dionisije's example and litigate internal church disputes in the civil courts.

The *amicus* brief filed by the Catholic Bishop of Chicago demonstrates that the largest of the hierarchical churches is seriously concerned that the precedent of the Illinois Supreme Court's decision will encourage civil court litigation of religious disputes and damage the freedom of churches to conduct their own internal affairs. Respondents' brief does not even discuss or attempt to refute these dangers. Respondents ignore the *amicus* brief.

More than a century ago, this Court recognized the dangers to internal church government represented by a standard of judicial review which permitted civil courts to determine whether internal church regulations had been followed. In *Watson* v. *Jones,* 80 U.S. (13 Wall.) 679 (1871), this Court noted that it might be argued that an ecclesiastical tribunal exceeded its "jurisdiction" if (80 U.S. at 733):

> "... no jurisdiction has been conferred on the tribunal to try the particular case before it, or that, in its judgment, it exceeds the powers conferred upon it, or that the laws of the church do not authorize the particular form of proceeding adopted. ..."

The Court pointed out the fallacy of this "jurisdictional" argument:

> "But it is easy to see that if the civil courts are to inquire into all these matters, the whole subject of the doctrinal theology, the usages and customs, the written laws, and fundamental organization of every religious denomination may, and must, be examined into with minuteness and care, for they would become, in almost every case, the *criteria* by which the validity of the ecclesiastical decree would be determined in the civil court. This principle would deprive these bodies of the right of construing their own church laws, would open the way to all the evils which we have depicted as attendant upon the doctrine of Lord Eldon, and would, in effect, transfer to the civil courts where property rights were concerned the decision of all ecclesiastical questions."

Respondents go even beyond the "violation of internal church regulations" standard of the Illinois Supreme Court. Respondents seek to add to the hurdles of judicial review an amorphous requirement of "fundamental fairness" (Resp. Br. 20-21, 39-40).

It is difficult to imagine a doctrine more likely to make deep inroads upon the freedom of churches to govern their own internal affairs. Once "fundamental fairness" were adopted as a standard, there would be no safeguards (other than this Court's ultimate reviewing authority) against meddling into internal church affairs by state court judges anywhere in the country.

The potential for abuse is especially great in church cases, because many hierarchical churches have origins, customs and traditions which differ widely from the familiar concepts of American "due process" from which state judges are likely to fashion their notions of "fundamental fairness".

This case involves an ancient Eastern European Church. Its independent existence dates from 1219 A.D. and it derived from the still-older Eastern Orthodox Church with its See in Constantinople. Respondents argue that the civil

courts should impose American doctrines of "fundamental fairness" upon a proceeding involving the Mother Church's removal and defrockment of a bishop who was originally sent by the Mother Church from Yugoslavia.

As in our original brief, we decline to be drawn by Respondents into a detailed discussion of each of the disputed questions of internal church law relating either to the disciplinary proceedings against Dionisije or the Diocesan reorganization. The merits of those issues are inappropriate for this Court's review. In any event, Respondents' brief does not call for any reply on these issues. In the appendices to our opening brief we summarized the positions of the parties on the disputed church law questions, and set forth Petitioners' arguments on that subject. Respondents have been content to state their own positions on these issues (which are essentially the positions we predicted in our appendices) without attempting to reply to Petitioners' arguments or demonstrate wherein those arguments are in error.

There are, however, two related issues of great importance to the Dionisije disciplinary proceedings which require separate treatment, and are discussed in Section III.

III.

DIONISIJE'S DEFAULT AND HIS ADMITTED POST-MAY 10, 1963 ECCLESIASTICAL OFFENSES DESTROY RESPONDENTS' PROCEDURAL ARGUMENTS AND SUFFICE TO SUSTAIN DIONISIJE'S REMOVAL AND DEFROCKMENT.

In Petitioners' original brief we set forth in detail the facts relating to Dionisije's default (indeed refusal to participate) in the disciplinary proceedings. We also discussed the undisputed and serious ecclesiastical offenses Dionisije committed in the months following his suspension on May 10, 1963 (Petitioners' Br. 19-26).

Petitioners argued that, regardless of the merit of Respondents' procedural objections, Dionisije's default and his admitted ecclesiastical offenses are sufficient to satisfy any proper civil court review of those proceedings (Pet. Br. 60-64).

Dionisije's Default

Surprisingly, in view of the emphasis given this issue in Petitioners' brief, Respondents ignore Dionisije's default. Articles 66 and 70 of the Penal Code specifically provide that an accused is deemed to "acknowledge the transgression" if he does not comply with the summons, refuses to accept the summonses and decrees of the Court, or does not reply to the indictment (all of which apply to Dionisije's actions). *

These provisions of Articles 66 and 70 are not even mentioned in Respondents' brief or in the Appendix to that brief. Respondents do not discuss or even mention the concept of default. They do not set forth their construction of Articles 66 and 70, nor cite any testimony or internal church documents which would support any interpretation of those articles other than the plain meaning of the words, i.e., that refusal to answer the indictment, obey the

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* Article 66 provides (PX 69, R. 3036, A. 1262):

"If a person accused of a Church violation does not comply with the summons or refuses to accept the summonses and decrees of the Court, or does not choose to reply to them, it shall be considered that he acknowledges the act and Due Process shall be concluded without his participation."

Article 70 provides, in pertinent part (PX 69, R. 3036, A. 1264-65):

"Should the accused not submit his reply to the indictment within [the prescribed] period, it shall be considered that he acknowledges the transgression and that he waives that right."

Court's summonses and order, or otherwise participate, is equivalent to a plea of guilty and transforms the proceeding from an adversary situation into one which may be conducted by default. Instead, Respondents merely assume (without evidence or argument) that the rules relating to adversary proceedings in which the accused participates remain fully applicable after a default.

Petitioners submit that it was constitutionally impermissible for the Illinois Supreme Court to deny the Mother Church's right to treat Dionisije's defiance and obstruction as a default and to proceed to render default judgments under Articles 66 and 70 of the Penal Code.

As noted, Respondents never confront the default issue. Their only argument at all germane to the point is the claim that Dionisije "attempted to participate" but was somehow prevented from doing so by the Mother Church (Resp. Br. 35-39). Of the three contentions set forth in support of their position, Respondents' claim that Dionisije's guilt was "predetermined" has already been discussed at pages 12-17, *supra*.

The complaint that the indictment was amended in March, 1964 without notice to Dionisije ignores the facts relating to his prior conduct. Long prior to the amended indictment, Dionisije had refused to recognize his suspension, refused to recognize or participate in proceedings before the Investigating Commission, taken the dispute to the civil courts, refused to answer the original indictment and returned it, and repeatedly denounced the Mother Church as Communist controlled and the charges against him as Communist inspired. Under these circumstances, the Holy Assembly was fully entitled to treat the matter as a default under Articles 66 and 70, and proceed without Dionisije's participation. Indeed, no one reading

the record would doubt that Dionisije would have refused to respond to the amended indictment just as he refused to participate in all earlier proceedings. Furthermore, the matters charged in the amended indictment involved open and public acts and statements of Dionisije. Those acts have never been disputed by Dionisije and are not disputed in Respondents' brief.

Finally, Dionisije complains that he was not given written copies of the charges against him. This complaint is but one example of Dionisije's contention, supported by nothing in the record relating to church law, that the proceedings must be conducted precisely in accordance with his preferences and, if not, that he may refuse to participate without suffering the penalty of a default judgment. There is nothing in the Church Constitution or Penal Code which so provides. No witness testified that the default provisions were subject to this type of massive exception.

In any event, there is no substance to Dionisije's claim that Church procedure prevented him from defending himself against the charges. The Investigating Commission brought all of the written charges with them when they came to America. They were prepared to discuss those charges with Dionisije on July 5, 1963. However, he deliberately aborted that meeting by refusing to recognize the authority of the Holy Synod or the Commission, by insisting that he would not participate in any hearing or any oral discussion of the charges, and by stating that he stood behind all of his defiant statements. (A. 212-15.)

Dionisije's Admitted Ecclesiastical Offenses.

Quite apart from the issue of default, the undisputed public acts of Dionisije between May, 1963 and January, 1964 demonstrate his guilt of a number of serious ecclesiastical

offenses which justified his removal and defrockment. These offenses include his refusal to recognize the authority of the Holy Assembly, the Holy Synod, and the Investigating Commission; his repeated defiance of their orders; his attempted secession from the Mother Church; and his public denouncement of the Patriarch, Holy Assembly, and Holy Synod as pro-Communist and atheistic.

Respondents simply ignore this matter. They do not dispute the truth of the charges, and nowhere answer the contention that these ecclesiastical offenses justified the judgment against Dionisije. What purpose would be served by the Illinois Supreme Court's requirement that the disciplinary proceedings begin all over again, when these undisputed offenses show that Dionisije's public conduct has made his removal and defrockment virtually unavoidable?

IV.

RESPONDENTS' ATTEMPTED CROSS-APPEAL FROM THE DECISION WHICH REFUSED TO RECOGNIZE THEIR PURPORTED SECESSION IS NOT PROPERLY BEFORE THIS COURT AND IS WITHOUT MERIT.

Respondents argue that the Illinois Supreme Court departed from "neutral principles of law" in refusing to recognize Respondents' attempted secession from the Serbian Orthodox Church (Resp. Br. 17-19).

This issue is not properly before the Court. Respondents raised the issue by way of a conditional cross-petition for certiorari contained in their Brief In Opposition To Certiorari (Resp. Cert. Br. 20-23). This Court's order of October 20, 1975 granted the petition for certiorari, but did not grant the conditional cross-petition.

Furthermore, Respondents did not raise the claim that non-recognition of their secession violated the federal constitution until they filed their briefs in this Court. Therefore, the issue was not properly raised or preserved for review by this Court. *Cardinale* v. *Louisiana,* 394 U.S. 437 (1969). Indeed, Respondents' constitutional argument has been changed since certiorari was granted. Respondents' conditional cross-petition for certiorari complained of an alleged denial of equal protection of the laws (Resp. Cert. Br. 20). However, Respondents' brief on the merits proceeds on an entirely different theory, *i.e.,* that the Illinois Supreme Court decided a religious issue by an alleged finding of "religious unanimity" (Resp. Br. 17-19).

If the Court should consider this issue to be properly presented for decision, the record demonstrates that Respondents' new argument is without merit.

Wholly apart from the grounds upon which the Illinois Supreme Court relied, Respondents' attempted secession was ruled invalid by the Holy Assembly of Bishops (DX 254, A. 1758-59). The interpretation of the internal church regulations regarding the right of secession was a matter as to which the good faith decision of the Holy Assembly was binding and conclusive.

Moreover, the grounds relied upon by the Illinois Supreme Court in its decision on secession were not improper. Respondents' argument is predicated upon the theory that the Illinois Supreme Court invalidated their purported secession only by delving into religious matters and determining that there was continuing "religious unanimity" between those loyal to the Mother Church and the Dionisije faction. But this is a plain misreading of the Illinois Court's decision. That Court decided the issue on two alternative grounds, neither of which involved an inquiry into religious faith (A. 1831-1833). *

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* The Illinois Appellate Court (A. 31) and the trial court (A. 1788) reached the same result on the same basis.

The Illinois Supreme Court found that the constitutions of the Mother Church and of the American/Canadian Diocese contain no provisions for unilaterial secession or withdrawal. Consequently, the court concluded that the constitutions themselves would provide no basis to recognize the validity of Respondents' secession. Indeed, there is no evidence, authority, or precedent in the record or briefs upholding the legality of a Serbian Orthodox Diocese leaving the Church of which it is a part.

As another alternative, the Illinois Supreme Court considered and rejected Respondents' "compact" theory. Respondents make the technical, legal argument that the relationship between the Mother Church and the American/Canadian Diocese is merely a "compact" or "contract" and that, regardless of intention,* the Diocesan reorganization amounted in law to a breach which gave rise to a right of rescission or secession by the Dionisije faction.

To this argument the Illinois Supreme Court made the obvious response that the relationship in question was a religious union, not a mere "compact". Consequently, the reorganization of a Diocese, even if done in violation of the provisions of the internal church constitutions, would not in law give rise to a right of rescission.

The Illinois Court's characterization of the relationship is obviously correct** and does not involve determining questions of religious faith to any greater degree than would have been the case if the Court had adopted the characterization of the relationship implicit in Respondents' "compact" theory.

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* Of course, no one seriously argues that the Mother Church actually intended in 1963 to cut itself off from or repudiate its relationship with the church members in North America.

** Indeed, Respondents themselves characterize the connection as "a spiritual-hierarchical relationship which was sacramental in nature" (Resp. Br. 17).

Respondents, as individuals, were and are free to leave the Mother Church and form a new religious organizaton. What Respondents seek to achieve in the case at bar is judicial recognition of Respondents' attempt to secede the Diocese as an entity, their claim to represent the "true" Serbian Orthodox Church in this country, and their exclusion of the majority group faithful to the Mother Church from participation in Diocesan affairs and use of Diocesan property. Acceptance of Respondents' secession argument would involve this Court in a truly religious determination—that the Dionisije faction constitutes the "true Serbian Orthodox Church in the United States".

CONCLUSION

For the reasons stated in this brief and in Petitioners' opening brief, Petitioners ask that this Court reverse the portions of the decision of the Illinois Supreme Court from which they have appealed and grant the relief requested in Petitioners' opening brief.

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MOTION FILED

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1975.

No. 75-292

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA, A RELIGIOUS BODY, ET AL.,

Petitioners,

vs.

DIONISIJE MILIVOJEVICH, ET AL.,

Respondents.

ON A WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS.

MOTION OF THE CATHOLIC BISHOP OF CHICAGO, A CORPORATION SOLE, FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE.

And

BRIEF FOR THE CATHOLIC BISHOP OF CHICAGO AS AMICUS CURIAE.

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NOW COMES THE CATHOLIC BISHOP OF CHICAGO, a corporation sole, by his undersigned attorneys, and respectfully applies for leave to file a brief as *amicus curiae* in the above-captioned case pursuant to Rule 42(3), and in support of his application, states:

1. The nature of the applicant's interest in the cause is described in the Affidavit that is attached hereto and made a part hereof as Exhibit "A."

2. As set forth in the Affidavit, the Catholic Bishop of Chicago leads the largest Roman Catholic Archdiocese in the United States. The Archdiocese is part of the Roman Catholic Church which is hierarchical in nature.

3. This case dealing with resolution of disputes in hierarchical churches, will have a lasting effect on their First Amendment rights. The Catholic Bishop of Chicago believes that an *amicus* brief on his behalf will illuminate the issues in this case as they relate to the Roman Catholic Church and will thus be of significant aid to the Court in considering and deciding the case before it.

4. Forty printed copies of the proposed *amicus* brief of the Catholic Bishop of Chicago are being lodged with the Clerk contemporaneously with this Motion.

Respectfully submitted,

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EXHIBIT A.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

AFFIDAVIT.

REVEREND MONSIGNOR FRANCIS A. BRACKIN, *M.A., S.T.L.*, being first duly sworn on oath, deposes and says:

1. He is a priest and Vicar General of the Roman Catholic Archdiocese of Chicago. As such, he assists in the administration of the Archdiocese and is familiar with its structure and organization.

2. The Roman Catholic Archdiocese of Chicago is the largest Roman Catholic Archdiocese in the United States. It encompasses Cook and Lake Counties, Illinois, and is organized as a corporation by a special act of the Illinois Legislature. The legal title of the corporation is: the Catholic Bishop of Chicago, a corporation sole. The Catholic Bishop of Chicago is the spiritual leader of 2,466,294 Catholics.

3. The Archdiocese of Chicago is part of the Roman Catholic Church which is hierarchical in nature. It shares an identical faith and doctrine with other Catholic churches throughout the world and all these churches look to the Pope in Rome as their ultimate earthly authority.

4. The Catholic Bishop of Chicago administers the Archdiocese both directly and through a number of boards and tribunals which are quasi-legislative or quasi-judicial in character. The Catholic Bishop is in turn subject to higher ecclesiastical authorities in the Church. These authorities also include quasi-legislative and quasi-judicial bodies.

5. The decisions of ecclesiastical authorities may be based on written norms such as the Code of Canon Law or unwritten traditions. These decisions may also have spiritual bases which cannot be readily verbalized or codified.

6. If the decisions of ecclesiastical authorities with respect to Church matters were made the subject of the same searching judicial review exhibited by the Illinois Supreme Court in this case, there would be a far-reaching adverse impact on the religious activities of hierarchical churches:

(a) Church administration would be disrupted and administrative action could be delayed for months or years;

(b) Church authorities would have to expend substantial resources defending their decisions in civil courts; and

(c) Church decisions would be guided increasingly by the civil law norms rather than ecclesiastical norms so that they could pass muster in the civil courts.

7. The Catholic Bishop is vitally interested in this case because of the broad application it may have to litigation relating to hierarchical churches. The Catholic Bishop believes that an *amicus* brief will be of significant assistance to the Court in considering and determining the issues presented.

8. The Catholic Bishop's counsel has requested the written consent of the parties to this litigation to file a brief *amicus curiae*, and such consent was not granted.

/s/ REVEREND MONSIGNOR FRANCIS A. BRACKIN, *M.A., S.T.L.*

REVEREND MONSIGNOR FRANCIS A. BRACKIN, *M.A., S.T.L.*

Subscribed and Sworn to before me this ninth day of December, 1975.

/s/ DOLORES FIGIEL,
Notary Public.

IN THE

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BRIEF FOR THE CATHOLIC BISHOP OF CHICAGO AS AMICUS CURIAE.

MAY IT PLEASE THE COURT:

PRELIMINARY STATEMENT.

The Catholic Bishop of Chicago, a corporation sole, respectfully submits this brief *amicus curiae;* his interest is set forth in the Affidavit of Monsignor Francis A. Brackin, M.A., S.T.L., Vicar General of the Roman Catholic Archdiocese of Chicago, which is attached to the Catholic Bishop's motion for leave to file this brief. The Affidavit is incorporated herein by reference.

This Court has long recognized that to preserve religious freedom it is necessary that civil courts accept as conclusive the decisions of the highest ecclesiastical authorities of a hierarchical church in ecclesiastical disputes. *Watson* v. *Jones,* 80 U.S. (13

Wall.) 679 (1871); *Gonzales* v. *Roman Catholic Archbishop*, 280 U.S. 1 (1929); *Kedroff* v. *St. Nicholas Cathedral of the Russian Orthodox Church in North America*, 344 U.S. 94 (1952); *Kreshik* v. *St. Nicholas Cathedral of the Russian Orthodox Church of North America*, 363 U.S. 190 (1960); *Presbyterian Church in the United States* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440 (1969). The decision of the Illinois Supreme Court in the instant case is a sharp departure from these precedents. It establishes civil courts as courts of review over decision making bodies of hierarchical churches and imposes civil law standards as tests against which ecclesiastical decisions must be measured. If left unchecked, this approach to the resolution of disputes within hierarchical churches would displace Church authority for resolving ecclesiastical disputes with civil authority, and ecclesiastical standards, with civil standards. The tragic result would be the gradual secularization of churches and their decision making bodies. We respectfully submit that this Court should act to correct the Illinois Supreme Court's departure from long established precedent and thus protect vital First Amendment rights.

ARGUMENT.

I. The "Arbitrariness" Exception to the Conclusiveness Rule Should Be Limited or Abandoned.

This Court has consistently held that civil courts must accept as conclusive the decisions of the highest authorities in a hierarchical Church regarding ecclesiastical disputes. *Presbyterian Church in the United States* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church, supra;* and the other authorities cited above. Although this Court has indicated in *dicta* that the rule would not apply where ecclesiastical decisions resulted from "fraud, collusion, or arbitrariness," it has never used any portion of this exception to invalidate an ecclesiastical decision. *Gonzales* v. *Roman Catholic Archbishop*, 280 U.S. at 16. Moreover, this

Court has explained, that civil courts were limited to the "narrowest kind of review" of ecclesiastical decisions; and that this review must be one that "does not inject the civil courts into substantive ecclesiastical matters." *Presbyterian Church in the United States* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. at 451.

In the present case, there is no question but that the Serbian Eastern Orthodox Church is hierarchical and that the decisions of its tribunals should be binding on the civil courts. *Serbian Eastern Orthodox Diocese for the United States of America and Canada* v. *Dionisije Milivojevich*, 60 Ill.2d 477, 501, 328 N.E.2d 268, 280 (1975):

> "Plaintiffs argue and defendant Bishop Dionisije does not dispute that the Serbian Orthodox Church is a hierarchical and episcopal church. Moreover, the parties agree that in cases involving hierarchical churches the decisions of the proper church tribunals on questions of discipline, faith or ecclesiastical rule, though affecting civil rights, are accepted as conclusive in disputes before the civil courts."

Nonetheless, the Illinois Supreme Court, conducted a detailed review of proceedings of the Serbian Eastern Orthodox Church pursuant to the "arbitrariness" exception. As a result of this review, the Court held that "Bishop Dionisije's removal and defrockment were not in accordance with the prescribed procedure of the constitution and the penal code of Serbian Orthodox Church;" and that: ". . . the division of the American-Canadian Diocese into three new dioceses by the Holy Assembly was 'in clear and palpable excess of its own jurisdiction,' and as such, it is not binding on civil courts." 60 Ill.2d at 503, 507, 328 N.E.2d at 281, 284.

This expansive application of the "arbitrariness" exception goes far beyond the "narrowest kind of review" referred to in *Blue Hull*. Indeed, the Illinois Supreme Court's review was at least tantamount to application of the "clearly erroneous" standard used for court review of the decisions of administrative agencies, if not the "against manifest weight of the evidence"

standard used for review of evidentiary determinations made by courts of first instance. Moreover, it certainly went beyond the practice of federal courts sitting in diversity jurisdiction to accept as conclusive the highest state court's interpretation of its law. *Erie R. R.* v. *Tompkins,* 304 U.S. 64 (1938); *Comer* v. *Texaco,* 514 F.2d 1243 (5th Cir. 1975). Whatever scope this Court ultimately delineates for court review of ecclesiastical decisions, surely that scope must be more limited than civil courts' review of government agency decisions or the factual findings and legal conclusions of other civil courts.

Not only did the Illinois Supreme Court conduct an excessive review of the Serbian Eastern Orthodox Church's proceedings, it also substituted itself as the final arbiter of its norms. This substitution is apparent in its critical review of the Church's proceedings and especially in its utter disregard for the Church's position that the defrocked Bishop's defiance of Church authority was highly relevant to any Church decisions made about him. 60 Ill. 2d at 503, 328 N.E.2d at 281. This disregard for ecclesiastical norms is the most pernicious aspect of the Illinois Supreme Court's decision and is pregnant with hazards for religious practice in hierarchical churches.

As was noted in the Affidavit of Monsignor Francis A. Brackin, certain norms for ecclesiastical decisions are written and codified, others are oral traditions and still others may be spiritual and beyond man's capacity for verbalization. This amalgam of principles, traditions, perspective and inspiration make up the character and stamp of a particular church or religion. When civil courts decide Church disputes and disregard Church norms, they inevitably alter the Church's character. This process would be accelerated as churches tailored their operations so that their decisions could survive in civil courts. Moreover, the power to review ecclesiastical decisions and criticize ecclesiastical norms is really the power to establish state religions by the gradual transformation of existing churches. Thus, whatever standards this Court may establish for review of Church decisions, those standards must protect against civil courts' altering ecclesiastical norms.

The Illinois Supreme Court begs the questions inherent in civil courts' tampering with ecclesiastical norms by asserting that it has resolved the issues before it without becoming entangled in the determination of theological or doctrinal matters. 60 Ill. 2d 505, 328 N.E.2d at 282. The fact of the matter is that theological norms are often so enmeshed with temporal norms that theological and temporal issues cannot be even defined, much less resolved independently of one another. More pertinently, the selection of a bishop and the reorganization of a diocese are plainly "substantive ecclesiastical matters." *Presbyterian Church in the United States* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church, supra.* This Court has held that the governmental sector must maintain absolute neutrality with respect to Church decisions on Church matters. *Walz* v. *Tax Commission,* 397 U.S. 664 (1970). The Illinois Supreme Court's overruling the Serbian Eastern Orthodox Church's decisions on the selection of a bishop and the reorganization of a diocese insinuates the state into the most sensitive of ecclesiastical matters. The Religion Clauses cannot permit the state to exercise veto power over the appointment of Church hierarchy and the reorganization of Church administration.

Apart from the foregoing, sweeping Court review of ecclesiastical decisions would seriously disrupt and delay the routine operations of Church tribunals and decision making bodies. In addition, it would require churches to divert substantial resources from their religious activities to the defense of their ecclesiastical decisions in the courts.

In sum, the cumulative impact of extensive court review of ecclesiastical decisions would constitute a two-fold violation of the Religion Clauses. It would impede churches from carrying out their religious activities and it would facilitate civil courts in establishing a state religion. We respectfully submit that this Court should avert these departures from First Amendment prec-

edents by abandoning the "arbitrariness" exception or at least by defining it in such a way as to preclude the broad review engaged in by the Illinois Supreme Court. If this Court chooses the latter course, it should require that the decisions of hierarchical churches with respect to Church matters be left undisturbed unless they are demonstrated to be clearly outside the ambit of the Church's authority.

CONCLUSION.

We respectfully submit that the Illinois Supreme Court's review of the decisions of the Serbian Eastern Orthodox Church violates the Religion Clauses of the First Amendment to the United States Constitution. We further submit that this Court should abandon the "arbitrariness" exception to the rule that civil courts must accept as final the decisions of hierarchical churches with respect to ecclesiastical disputes. In the alternative, this Court should require that the decisions of hierarchical churches be left undisturbed unless demonstrated to be clearly outside the ambit of the Church's authority.

Respectfully submitted,

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